

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 IN RE: NATIONAL )  
5 PRESCRIPTION ) MDL No. 2804  
6 OPIATE LITIGATION )  
7 \_\_\_\_\_ ) Case No.  
8 ) 1:17-MD-2804  
9 )  
10 THIS DOCUMENT RELATES ) Hon. Dan A.  
11 TO ALL CASES ) Polster  
12 )

13 WEDNESDAY, AUGUST 1, 2018

14 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
15 CONFIDENTIALITY REVIEW

16 - - -

17 Videotaped deposition of Nathan J.  
18 Hartle, held at the offices of Covington &  
19 Burlington, LLP, One City Center, 850 Tenth  
20 Street Northwest, Washington, DC, commencing  
21 at 9:03 a.m., on the above date, before  
22 Carrie A. Campbell, Registered Diplomat  
23 Reporter, Certified Realtime Reporter,  
24 Illinois, California & Texas Certified  
25 Shorthand Reporter, Missouri & Kansas  
Certified Court Reporter.

- - -

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1 McKesson and the witness.  
2 MS. HENN: Emily Henn on behalf  
3 of McKesson and the witness.  
4 VIDEOGRAPHER: Okay. Will the  
5 court reporter please administer the  
6 oath?  
7 Telephone, sorry, yes. Yeah,  
8 telephone?  
9 MS. PEDROZA: Monica Pedroza on  
10 behalf of Teva Pharmaceuticals USA,  
11 Inc., Cephalon Inc., Watson  
12 Laboratories, Inc., Actavis, LLC and  
13 Actavis Pharma, Inc.  
14 MR. LADD: Matthew Ladd on  
15 behalf of Rite Aid.  
16 MR. AUBEL: Bill Aubel, Jackson  
17 Kelly, on behalf of Miami-Luken, Inc.  
18 VIDEOGRAPHER: Okay.  
19 MR. RAFFERTY: Anybody else?  
20 VIDEOGRAPHER: The court  
21 reporter is Carrie Campbell, who will  
22 now administer the oath.  
23  
24 NATHAN J. HARTLE,  
25 of lawful age, having been first duly sworn

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1 to tell the truth, the whole truth and  
2 nothing but the truth, deposes and says on  
3 behalf of the Plaintiffs, as follows:  
4  
5 DIRECT EXAMINATION  
6 QUESTIONS BY MR. RAFFERTY:  
7 Q. Could you state your name,  
8 please?  
9 A. Nathan John Hartle. I go by  
10 Nate.  
11 Q. Mr. Hartle, my name is Troy  
12 Rafferty. I'm going to be asking you some  
13 questions today.  
14 Okay?  
15 A. Okay.  
16 Q. Who is your current employer?  
17 A. McKesson Corporation.  
18 Q. Okay. What is your current  
19 position?  
20 A. I'm currently the vice  
21 president of compliance -- regulatory affairs  
22 and compliance.  
23 Q. Vice president of regulatory  
24 affairs and compliance.  
25 A. Correct.

Page 16

1 Q. Is that a new position?  
2 A. It is a new position, new  
3 title, as of July 1st. Prior to that, I  
4 was -- senior director of regulatory affairs  
5 was my title.  
6 Q. Senior director of regulatory  
7 affairs for the retail national accounts or  
8 in some other capacity?  
9 A. Correct. For the retail  
10 national accounts. The new title, I will be  
11 taking on the statistics and analytics team  
12 here shortly.  
13 Q. Okay. So is that a  
14 different -- the title is different, but is  
15 the position different from what you had  
16 before?  
17 A. I maintain the certain  
18 regulatory -- or the chain responsibilities,  
19 and in addition to that will be statistics  
20 and analytics.  
21 (McKesson-Hartle Exhibit 41  
22 marked for identification.)  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. Okay. I'm going to show you --  
25 MR. RAFFERTY: If we could pull

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1 up, Corey, 1.795, which we will mark  
2 as Exhibit 41 to the deposition.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. Okay. What I'm showing you --  
5 I'm going to show you some documents  
6 throughout the deposition, Mr. Hartle. I'm  
7 going to direct you to certain areas. If  
8 there's a different part that you want to  
9 look at or if you want to take a minute to  
10 review, I'm fine with that. Just let me  
11 know.  
12 Okay?  
13 A. Okay.  
14 Q. But to try and keep things  
15 moving, we're under a time -- you know, I've  
16 only got a certain amount of time, so I'm  
17 going to try and direct you to those areas.  
18 Okay?  
19 A. Understood.  
20 Q. All right. What we have here,  
21 if you look, is something entitled  
22 "McKesson's Controlled Substance Monitoring  
23 Program, Regulatory Affairs Training."  
24 Do you see that?  
25 A. I do.

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1 Q. Okay. And I will represent to  
2 you that there's not a date on this, but we  
3 looked at the production, and there's  
4 something referred to as metadata that  
5 established that this was produced  
6 December 31, 2015.

7 Okay?

8 You were there in your role as  
9 senior director of retail and national  
10 accounts, correct?

11 A. Correct.

12 Q. You started there when? In  
13 McKesson.

14 A. In May of 2014.

15 Q. May of 2014. Okay.

16 And you maintained that same  
17 position in charge of retail national  
18 accounts until July of this year when your  
19 position changed, correct, or your title  
20 changed?

21 A. Title changed, yeah. And I've  
22 added different responsibilities, but I've  
23 always had the chain responsibility.

24 Q. So you've added additional  
25 responsibilities, yes?

Page 19

1 A. Correct.

2 Q. Okay. If you'll turn to  
3 page .9, I want to just make sure I  
4 understand who -- where you sit in the  
5 hierarchy of McKesson. Okay?

6 And in particular, US pharma is  
7 the division of McKesson that handles and  
8 sells the narcotics, right? That's the  
9 division?

10 A. Correct. Correct.

11 Q. Okay. So if you look up here,  
12 you've got regulatory affairs, retail  
13 national accounts, and it says, "Nate Hartle,  
14 senior director," right?

15 A. It does.

16 Q. Nobody above you?

17 A. Not on this slide.

18 Q. Not on that. Not in terms of  
19 retail national accounts?

20 A. Correct.

21 Q. Okay. Because there's one  
22 other person, a vice president, I think, at  
23 the time, Krista Peck?

24 A. Senior vice president.

25 Q. Senior vice president.

Page 20

1 Okay. So -- and we'll look at  
2 that in just a minute. But you have  
3 underneath you some direct reports, including  
4 Micheal Bishop.

5 Do you know who Micheal Bishop  
6 is?

7 A. I do.

8 Q. Okay. Michael Oriente. Do you  
9 know who that is?

10 A. I do.

11 Q. Okay. Jay Espailat?

12 A. Espailat.

13 Q. Espailat.

14 And then Adam Palmer, who  
15 reports to Michael Oriente.

16 Do you see that?

17 A. I do.

18 Q. And then Jennifer Sheffield,  
19 the regulatory affairs admin?

20 A. Yeah.

21 Q. Okay. And that was your team,  
22 right?

23 A. Was, yeah. It's changed over  
24 time.

25 Q. Okay. It's changed. In

Page 21

1 fact -- yeah. Okay.

2 So if we go now to point --  
3 well, how long was that your team? How long  
4 did you have -- in particular looking at the  
5 director of regulatory affairs, Michael  
6 Oriente, and Micheal Bishop, the regulatory  
7 affairs manager, how long were they with you?

8 A. So it's evolved. When I --  
9 Michael joined the team -- Michael, Adam  
10 Palmer -- well, two Michaels and Adam Palmer  
11 joined the team in 2014. Jay was added -- I  
12 can't remember the exact time frame, but  
13 right around in 2015. He supports some work  
14 I do for the entire regulatory affairs team  
15 focused on threshold methodology and some  
16 advancements we made.

17 Q. Okay. All right. My specific  
18 question is how long they've been with you.

19 A. How long --

20 Q. How long were they on your  
21 team?

22 A. Michael's been on the team  
23 since 2014. Adam's been 2014. Jay's been  
24 2015.

25 Q. Okay.

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1 A. Micheal Bishop is no longer  
 2 here. We've had some adjustments.  
 3 Q. But he was with you until 2018,  
 4 correct?  
 5 A. Yes.  
 6 Q. Okay. Let's take a look now at  
 7 the US pharma regulatory affairs. And the  
 8 reason I want to do this is I want to make  
 9 sure I know when we're talking today and  
 10 you're answering questions, in what capacity  
 11 you're answering them in terms of the  
 12 hierarchy of regulatory affairs at McKesson.  
 13 Okay?  
 14 A. Understood.  
 15 Q. All right.  
 16 MR. RAFFERTY: So if we could,  
 17 turn to page .4, Corey.  
 18 QUESTIONS BY MR. RAFFERTY:  
 19 Q. All right. Now this is,  
 20 according to the CSMP training module that  
 21 we're looking at, this is supposed to be the  
 22 US pharma regulatory affairs CSMP team.  
 23 Do you see that?  
 24 A. I do.  
 25 Q. Okay. CSMP is the controlled

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1 substance monitoring program, right?  
 2 A. Correct.  
 3 Q. And that is really the  
 4 foundation of the regulatory affairs  
 5 department in terms of your job  
 6 responsibilities and duties, right?  
 7 MS. HENN: Objection to form.  
 8 THE WITNESS: It is.  
 9 QUESTIONS BY MR. RAFFERTY:  
 10 Q. Okay. And as part of that  
 11 duty, you have an obligation, a  
 12 responsibility, a duty, to understand and  
 13 implement the controlled substance monitoring  
 14 program of McKesson, true?  
 15 A. That's true.  
 16 Q. Okay. And if we look at the  
 17 hierarchy here, there's Gary -- okay, Krista  
 18 Peck, who is the senior vice president. I  
 19 assume above her is the president of  
 20 McKesson?  
 21 A. Correct.  
 22 Q. Okay. That's Mr. Hammergren  
 23 right now?  
 24 A. No. Above Krista or that  
 25 position is the president of US pharma.

Page 24

1 Q. Of US pharma, I'm sorry.  
 2 That's what -- okay.  
 3 And who was that at the time;  
 4 do you remember?  
 5 A. It was Mark Walchirk.  
 6 Q. Okay. So you got Krista Peck,  
 7 who is one step away from the president of US  
 8 pharma, right?  
 9 A. Correct.  
 10 Q. And then right below her you've  
 11 got Nate Hartle sitting there as senior  
 12 director, right?  
 13 A. Correct.  
 14 Q. You got Lisa Young as the  
 15 senior director for the west region, right?  
 16 A. Correct.  
 17 Q. And then Gary Boggs is the  
 18 senior director for the east region, right?  
 19 A. Correct.  
 20 Q. Okay. So there were two  
 21 regions, east and west, and then you, who  
 22 covered, I assume, regional national -- I  
 23 always say regional national account --  
 24 retail national accounts for the entire  
 25 country, correct?

Page 25

1 A. Yes, that's correct.  
 2 Q. Okay. Now, when we talk about  
 3 the retail national accounts, we're talking  
 4 about -- that you were in charge of, we're  
 5 talking about the Rite Aids, CVS, Walgreens,  
 6 Walmarts and a bunch of others that I'm not  
 7 listing, right?  
 8 A. A variety of chains.  
 9 Q. Chains. Okay.  
 10 A. Chains is the best way to talk  
 11 about it.  
 12 Q. Okay. But literally thousands  
 13 of stores in those chains, right?  
 14 A. In some of them.  
 15 Q. In some of them.  
 16 And you're over all of that?  
 17 A. Correct, those chains.  
 18 Q. From a regulatory controlled  
 19 substance monitoring program standpoint,  
 20 true?  
 21 A. True.  
 22 MS. HENN: Objection to form.  
 23 QUESTIONS BY MR. RAFFERTY:  
 24 Q. So tell me, how much of the  
 25 business in terms of US pharma compared to

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1 the -- because there's another category of  
2 stores called the -- I believe you refer to  
3 them as ISMCs; is that right?  
4 A. Correct.  
5 Q. Okay. And that is the  
6 independent small medium chains?  
7 A. Correct.  
8 Q. Is that what that stands for?  
9 A. That's what it stands for, yes.  
10 Q. Okay. All right. And that's  
11 what Gary Boggs and Lisa Young would have  
12 been over in their regions?  
13 A. Yes, that's part of their  
14 responsibility.  
15 Q. Okay. All right. The retail  
16 national accounts, that's a pretty big part  
17 of US pharma's business, isn't it,  
18 Mr. Hartle?  
19 MS. HENN: Objection to form.  
20 THE WITNESS: It is a larger  
21 part of the business.  
22 QUESTIONS BY MR. RAFFERTY:  
23 Q. It's a much larger part of the  
24 business than the IMC accounts, correct?  
25 ISMC, I'm sorry.

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1 MS. HENN: Objection to form.  
2 THE WITNESS: Yes, it is.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. Okay. When we talk about the  
5 CSMP, you also agree that -- that was  
6 implemented in 2008, correct? The first --  
7 the first CSMP was put into effect in 2008,  
8 true?  
9 A. Correct.  
10 Q. Okay. And that was as a result  
11 and immediately after paying the -- McKesson  
12 paid that \$13,250,000 fine for the  
13 allegations against them by the DEA and DOJ,  
14 correct?  
15 MS. HENN: Objection to form.  
16 THE WITNESS: Could you state  
17 that again for me, please?  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. Sure.  
20 The CSMP that we're talking  
21 about, put into effect by McKesson in 2008,  
22 true?  
23 A. The initial one is an expansion  
24 of the Lifestyle drug monitoring program. It  
25 was the next one in 2008.

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1 Q. Okay. The CSMP -- because it  
2 wasn't the CSMP before. It was the Lifestyle  
3 drug management program, right?  
4 A. Correct.  
5 Q. And when we talk about -- when  
6 I'm saying the CSMP, I'm talking about the  
7 controlled substance monitoring program that  
8 you have said is the foundation of the  
9 responsibility and the job of the regulatory  
10 affairs department.  
11 Okay?  
12 The CSMP was put into effect in  
13 2008, right?  
14 A. Correct.  
15 Q. After the settlement with  
16 the -- that McKesson entered into with the  
17 DOJ where they settled claims of violations  
18 of the Controlled Substance Act and paid a  
19 \$13,250,000 fine, true?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: It was  
22 implemented in that time frame, right  
23 at that time -- right after that time.  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. Well, in fact, the two -- and

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1 in fact -- I'm sorry. And if I speak over  
2 you at any time, it's just -- it's just a  
3 habit, and so I apologize. And so just let  
4 me know, or I'm sure Ms. Henn will let me  
5 know, and I'll try not to do that.  
6 But in fact, the 2008  
7 settlement agreement mandated that you  
8 implement a program to monitor for suspicious  
9 orders, report suspicious orders and stop  
10 shipments of -- when you determine there to  
11 be a suspicious order, true?  
12 MS. HENN: Objection. Form.  
13 THE WITNESS: That type of  
14 language was in the agreement, yes.  
15 QUESTIONS BY MR. RAFFERTY:  
16 Q. Okay. And in doing that, in  
17 response to that, you implemented -- you  
18 changed from the Lifestyle -- the Lifestyle  
19 drug management program --  
20 A. Monitoring.  
21 Q. Monitoring program, I'm sorry.  
22 -- to the CS -- what you now  
23 refer to as the CSMP, true?  
24 A. True.  
25 Q. Okay. And the CSMP, you agree,



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1 is a national policy for McKesson, right?  
 2 MS. HENN: Objection to form.  
 3 QUESTIONS BY MR. RAFFERTY:  
 4 Q. Covers --  
 5 A. It covers our -- all of our  
 6 segments.  
 7 Q. Yeah, it covers everybody,  
 8 right?  
 9 Every customer that you're  
 10 selling narcotic painkillers to is supposed  
 11 to be -- McKesson is supposed to be  
 12 monitoring them and implementing through  
 13 regulatory affairs the controlled substance  
 14 monitoring program, correct?  
 15 A. Correct.  
 16 Q. Okay. There's not -- because  
 17 we saw those two regions, the east region and  
 18 the west region. There's not a CSMP east  
 19 with different policies and procedures and a  
 20 CSMP west with different policies and  
 21 procedures, is there?  
 22 A. There's not.  
 23 Q. Okay. It's just one CSMP?  
 24 A. Correct.  
 25 Q. And that CSMP covers both the

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1 ISMC -- the ISMC customers as well as the RNA  
 2 customers, correct?  
 3 MS. HENN: Objection to form.  
 4 THE WITNESS: It does, with  
 5 some -- I'm sure we'll talk about this  
 6 later -- some unique differences for  
 7 this particular chain group.  
 8 QUESTIONS BY MR. RAFFERTY:  
 9 Q. Right.  
 10 You treat the RNAs in some ways  
 11 differently than you treat the small  
 12 pharmacies, right, or the small chain  
 13 pharmacies?  
 14 MS. HENN: Objection to form.  
 15 QUESTIONS BY MR. RAFFERTY:  
 16 Q. Inside the CSMP.  
 17 A. We do. Have made adjustments  
 18 based on the characteristics of that segment  
 19 in different parts of our program.  
 20 Q. Okay. I didn't ask you why.  
 21 A. Okay.  
 22 Q. My question was: You treat  
 23 them differently inside the CSMP, that you  
 24 treat the retail national accounts in some  
 25 ways in the CSMP differently than the ISMCs,

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1 correct?  
 2 MS. HENN: Objection to form.  
 3 THE WITNESS: In some ways we  
 4 treat them different to accomplish the  
 5 same goals.  
 6 QUESTIONS BY MR. RAFFERTY:  
 7 Q. So my answer would be yes?  
 8 MS. HENN: Objection to form.  
 9 THE WITNESS: We do treat them  
 10 differently in some ways.  
 11 QUESTIONS BY MR. RAFFERTY:  
 12 Q. Okay. Thank you.  
 13 All right. I want to talk for  
 14 a few minutes about the opioid epidemic in  
 15 the United States.  
 16 First of all, you agree that  
 17 there is, in fact, an opioid epidemic in the  
 18 United States, true?  
 19 A. I do agree.  
 20 Q. And that epidemic has been  
 21 going on for years, correct?  
 22 A. Based on what I read and what I  
 23 know, absolutely.  
 24 Q. Well, you actually read and  
 25 know a lot of about the epidemic that's going

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1 on in the country, don't you?  
 2 MS. HENN: Objection to form.  
 3 THE WITNESS: I do. That's  
 4 part of my responsibility -- my  
 5 business.  
 6 QUESTIONS BY MR. RAFFERTY:  
 7 Q. Yeah.  
 8 In fact, that's a big part of  
 9 your business is knowing exactly what's going  
 10 on in the country in terms of the abuse of  
 11 narcotic painkillers, right?  
 12 A. It's part of my responsibility.  
 13 Q. Okay.  
 14 A. It's why I do what I do.  
 15 Q. All right. In fact, you would  
 16 agree that this epidemic has had a  
 17 devastating effect on public health and  
 18 welfare throughout the country, true?  
 19 A. It has.  
 20 Q. And in fact, you have spoken  
 21 and actually given presentations about the  
 22 opioid epidemic in the country, correct?  
 23 A. I have.  
 24 Q. In fact, would you agree that  
 25 the opioid epidemic in the United States of

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1 America is the deadliest drug epidemic on  
2 record in our country's history?  
3 A. I'm not an epidemiologist, but  
4 I would believe, yes.  
5 Q. Okay. Well, let's look at  
6 1437.3, which we will mark as Exhibit 41 --  
7 42.  
8 (McKesson-Hartle Exhibit 42  
9 marked for identification.)  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. All right, Mr. Hartle. You see  
12 this controlled substance monitoring,  
13 Discount Drug Mart?  
14 Do you recognize that?  
15 A. I absolutely do.  
16 Q. Okay. And it appears, though  
17 this one does have a date on it, it's  
18 September 29, 2017. So not really all that  
19 long ago, right?  
20 A. Correct.  
21 Q. Okay. Less than a year ago,  
22 right?  
23 A. That is.  
24 Q. And you see down there Nate  
25 Hartle, senior director, regulatory affairs,

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1 right?  
2 A. Yeah, it's my document.  
3 Q. Okay. Do you recall giving  
4 this presentation?  
5 A. I do.  
6 MR. RAFFERTY: If we could,  
7 let's turn to .3, Corey.  
8 QUESTIONS BY MR. RAFFERTY:  
9 Q. You see that up in the top of  
10 one of your slides there on page 3, a  
11 headline, "Deadliest Drug Epidemic on Record  
12 in Our Nation's History"?  
13 Do you see that?  
14 A. Yep.  
15 Q. You wouldn't have put that in  
16 your presentation unless you thought it was  
17 true, right?  
18 A. No.  
19 Q. So you don't dispute that,  
20 right?  
21 A. I do not.  
22 Q. Okay. It then goes on and  
23 says, "The drug problems of past decades pale  
24 when compared to the current opioid epidemic  
25 which has killed 165,000 Americans from 2000

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1 to 2014."  
2 Did I read that right?  
3 A. You did.  
4 Q. Okay. Once again, you agree  
5 with that statement, right?  
6 A. These are part of the  
7 presentation that I gave.  
8 Q. Okay. If we now go to the next  
9 page, page 4, it says over there, "Scope of  
10 the problem." On an average day, an average  
11 day in the US, more than 650,000 opioid  
12 prescriptions are dispensed.  
13 Do you see that?  
14 A. I do.  
15 Q. 3,900 people initiate  
16 non-medical use of prescription opioids, and  
17 then it says 580 people initiate heroin use.  
18 You see that?  
19 A. I see those.  
20 Q. And in fact, opioid abuse and  
21 addiction is a gateway to heroin use and  
22 addiction, correct?  
23 MS. HENN: Objection to form.  
24 THE WITNESS: I'm not a medical  
25 expert, but, you know, I've read

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1 things, I use data from different  
2 sources, and they say that.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. I don't -- okay. As head of  
5 regulatory affairs and the controlled  
6 substance monitoring program for national  
7 chains of McKesson, would you agree that in  
8 fact narcotic painkiller abuse, opioid abuse,  
9 is a gateway to heroin use?  
10 MS. HENN: Objection to form.  
11 THE WITNESS: I would agree  
12 that it can be, yeah.  
13 QUESTIONS BY MR. RAFFERTY:  
14 Q. Okay. And in fact, 78 people  
15 die from an opioid-related overdose every day  
16 according to your slide.  
17 Do you see that?  
18 A. I see that.  
19 Q. In fact, if you go on to your  
20 presentation, page 16, .16, talking about the  
21 heroin use, it says -- or what you say in  
22 your presentation, or what you put in your  
23 presentation, was people who are addicted  
24 to -- and then it says, "Opioid painkillers  
25 are 40 times more likely to be addicted to

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1 heroin."  
 2 Do you see that?  
 3 A. I see that.  
 4 Q. And you agree with that?  
 5 A. I put them in the slides as  
 6 part of the information that I keep current  
 7 on.  
 8 Q. You agree with that?  
 9 A. Again, I'm not an expert in  
 10 terms of numbers, but I agree with what  
 11 they're putting out.  
 12 Q. Okay.  
 13 A. The concepts --  
 14 Q. And you wouldn't have put it  
 15 out there if you thought it was inaccurate,  
 16 right?  
 17 A. I would not have.  
 18 Q. Okay. Talking about the  
 19 heroin, the gateway to heroin, if we could,  
 20 let's have 1580.  
 21 (McKesson-Hartle Exhibit 43  
 22 marked for identification.)  
 23 QUESTIONS BY MR. RAFFERTY:  
 24 Q. This is another presentation  
 25 that you gave, Mr. Hartle. We'll mark this

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1 as Exhibit 43. This is another presentation  
 2 that you gave. If you look at this --  
 3 MR. RAFFERTY: Corey, if you  
 4 could pull it up, please, 1.580 --  
 5 1.1580.  
 6 All right. Just give me the  
 7 Elmo. I'll just use the Elmo.  
 8 QUESTIONS BY MR. RAFFERTY:  
 9 Q. You see there it says,  
 10 "Regulatory affairs update, RNA leadership  
 11 team, Nate Hartle, senior director,  
 12 regulatory affairs."  
 13 Do you see that?  
 14 A. Yes.  
 15 Q. November 20, 2015.  
 16 You see that?  
 17 A. I do.  
 18 Q. Okay. Do you recall giving  
 19 this presentation?  
 20 A. I'm going to scan through it  
 21 real quick just so I can refresh --  
 22 Q. Well, let me -- and feel free  
 23 to, but I'm just going to -- I'm going to  
 24 start with the second page, so...  
 25 A. I -- I believe it was a

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1 conference call, maybe. I don't remember  
 2 exactly all the details from back then, but  
 3 this is my work, yeah.  
 4 Q. It doesn't matter. This is  
 5 your work.  
 6 A. Yeah.  
 7 Q. That's all I wanted to get.  
 8 Okay. So if you look here it  
 9 says, "Addressing prescription drug abuse and  
 10 heroin use." And you see it's got a little  
 11 flow chart, you see?  
 12 And it goes from the 259  
 13 million prescriptions of opioids and then --  
 14 which goes into prescription drug misuse  
 15 resulting in 1.4 million emergency room  
 16 visits in 2011.  
 17 And then that follows with  
 18 "four out of five users started by  
 19 misusing" -- in terms of heroin use, "four  
 20 out of five users started by misusing  
 21 prescription opioids."  
 22 You see that?  
 23 A. I see that.  
 24 Q. And then overdose, "16,000  
 25 prescription opioid deaths; heroin overdoses

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1 rapidly increasing."  
 2 Do you see that?  
 3 A. I do see that.  
 4 Q. "Four out of five users of  
 5 heroin started by misusing prescription  
 6 opioids."  
 7 Did I read that right?  
 8 A. That's what it says.  
 9 MR. RAFFERTY: Now, if we could  
 10 have 1.1355, Corey, that we'll mark as  
 11 Exhibit 44.  
 12 (McKesson-Hartle Exhibit 44  
 13 marked for identification.)  
 14 QUESTIONS BY MR. RAFFERTY:  
 15 Q. Oh, this is a document that  
 16 says -- it's titled "Prescription Drug Abuse:  
 17 The National Perspective."  
 18 It's got McKesson up there in  
 19 the top right corner.  
 20 Do you see that?  
 21 A. I see that.  
 22 Q. And down by the bottom middle  
 23 it's 2014, McKesson Corporation, correct?  
 24 A. Correct.  
 25 Q. Okay. If we go into this and

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1 you turn to the second page -- .2, Corey --  
 2 and it talks about the current landscape,  
 3 epidemic.  
 4 Do you see that?  
 5 A. I see that.  
 6 Q. And then it says, "Prescription  
 7 drug overdoses, a US epidemic. In 2007,  
 8 approximately 27,000 unintentional drug  
 9 overdose deaths occurred in the United  
 10 States, one death every 19 minutes.  
 11 Prescription drug abuse is the fastest  
 12 growing drug problem in the United States."  
 13 You see that?  
 14 A. I do.  
 15 Q. A death every 19 minutes,  
 16 right?  
 17 A. Right. That's what it says.  
 18 Q. Okay. In fact, your company  
 19 has been in the business of selling opioid  
 20 and narcotic painkillers for many years,  
 21 hasn't it?  
 22 A. It has.  
 23 Q. The same opioid and narcotic  
 24 drugs that are at the core of the epidemic  
 25 that we've just been talking about, true?

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1 MS. HENN: Objection to form.  
 2 THE WITNESS: Those drugs are  
 3 part of the epidemic.  
 4 QUESTIONS BY MR. RAFFERTY:  
 5 Q. And in fact, it is an epidemic  
 6 that you have testified McKesson is partially  
 7 responsible for, correct?  
 8 MS. HENN: Objection to form.  
 9 THE WITNESS: That we are part  
 10 of the supply chain and have --  
 11 absolutely play a role.  
 12 QUESTIONS BY MR. RAFFERTY:  
 13 Q. And you are partially  
 14 responsible for the United States -- the  
 15 epidemic and the societal costs as a result  
 16 of prescription drug abuse in the United  
 17 States, correct?  
 18 MS. HENN: Objection to form.  
 19 QUESTIONS BY MR. RAFFERTY:  
 20 Q. You've testified to that.  
 21 A. What I said yesterday is I  
 22 said, yes, we are partially in the -- what I  
 23 mean by that is, again, we are part of the  
 24 overall supply chain and play a role and are  
 25 in the broader -- we're part of the society,

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1 so we are part of that.  
 2 Q. You're part of it because  
 3 you're part of society; is that what you  
 4 mean?  
 5 A. We're part of the supply chain  
 6 and --  
 7 Q. A closed supply chain, right?  
 8 A. Right.  
 9 Q. Meaning not everybody gets to  
 10 sell drugs, narcotic drugs, in the United  
 11 States, do they?  
 12 A. They do not.  
 13 Q. You have to register, and you  
 14 have to get permission from the DEA and the  
 15 federal government, right?  
 16 A. You do.  
 17 Q. And as a result of that  
 18 privilege to sell those, as a result of that  
 19 ability to sell those, you have certain  
 20 responsibilities, don't you?  
 21 A. We do.  
 22 Q. And part of those  
 23 responsibilities are to prevent diversion of  
 24 those narcotic drugs, right?  
 25 MS. HENN: Objection to form.

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1 THE WITNESS: It's part of our  
 2 responsibility.  
 3 QUESTIONS BY MR. RAFFERTY:  
 4 Q. Right.  
 5 And what happens when you fail  
 6 in that responsibility and drugs are diverted  
 7 to nonmedical use?  
 8 MS. HENN: Objection to form.  
 9 QUESTIONS BY MR. RAFFERTY:  
 10 Q. The epidemic grows, doesn't it,  
 11 Mr. Hartle?  
 12 MS. HENN: Objection to form.  
 13 THE WITNESS: There's many  
 14 things can that happen when drugs are  
 15 diverted.  
 16 QUESTIONS BY MR. RAFFERTY:  
 17 Q. One of those is the epidemic  
 18 that we've just been going through increases  
 19 and grows, doesn't it?  
 20 A. It can.  
 21 Q. And it has?  
 22 A. It has grown.  
 23 Q. That's right.  
 24 And in fact, what you said  
 25 yesterday, so that we're clear, if I could



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1 have the Elmo --  
 2 MR. RAFFERTY: And this is  
 3 yesterday's rough transcript at  
 4 page 283, starting on line 17,  
 5 Counsel.  
 6 QUESTIONS BY MR. RAFFERTY:  
 7 Q. So if we look at this, it says  
 8 specifically -- you were asked the question:  
 9 "Well, back to McKesson Corporation, which is  
 10 you sitting in the chair today. Knowing what  
 11 you know as the 30(b)(6) representative, the  
 12 corporate designee, knowing about your past  
 13 conduct" -- and when -- "your" there means  
 14 McKesson's past conduct -- "knowing about the  
 15 past interactions with the DEA, I'm going to  
 16 ask you again: Does McKesson Corporation  
 17 accept partial responsibility for the  
 18 societal costs of prescript -- of  
 19 prescription drug abuse in America?"  
 20 Do you see that?  
 21 A. I see that.  
 22 Q. And then you go on and you  
 23 say -- you say: "Again, you know, we're part  
 24 of the closed system, so we're responsible  
 25 for preventing diversion."

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1 And then you're asked again:  
 2 "So the answer is?"  
 3 And you say: "Again, I think  
 4 we're responsible for something. I don't  
 5 know what. How you define all societal  
 6 costs. I still believe it depends on  
 7 different circumstances."  
 8 Question: "Sure. We're not  
 9 going to parse out percentages."  
 10 Answer: "Yeah."  
 11 Question: "Just talking  
 12 globally for McKesson Corporation, so I don't  
 13 want to put words in your mouth because it's  
 14 got to come out of your mouth. So the answer  
 15 is yes or no?"  
 16 And you say: "I would say yes,  
 17 partially."  
 18 Do you recall that?  
 19 A. I do.  
 20 Q. And that is in response to the  
 21 original question, which was -- because that  
 22 was a long colloquy or discussion. That's an  
 23 answer to the original question that you were  
 24 being asked by counsel, correct?  
 25 A. That was the original question.

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1 Q. Yeah.  
 2 And that was: "Does McKesson  
 3 Corporation accept partial responsibility for  
 4 the societal costs of prescription drugs in  
 5 America?"  
 6 Answer: "I would say yes,  
 7 partially."  
 8 MS. HENN: Objection to form.  
 9 QUESTIONS BY MR. RAFFERTY:  
 10 Q. Do you recall giving that  
 11 testimony yesterday?  
 12 A. I do.  
 13 Q. Okay. You understand that  
 14 yesterday when you were sitting in that chair  
 15 you were under oath, correct?  
 16 A. Absolutely.  
 17 Q. Okay. Just like you are today?  
 18 A. Absolutely.  
 19 Q. Okay. So the epidemic that  
 20 we've been going back -- we've been reviewing  
 21 in some of the presentations you made about  
 22 the epidemic, you would agree McKesson is  
 23 partially responsible for that epidemic,  
 24 correct?  
 25 MS. HENN: Objection to form.

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1 QUESTIONS BY MR. RAFFERTY:  
 2 Q. Just as you testified  
 3 yesterday.  
 4 A. Yeah, again, as I testified  
 5 yesterday and as -- my intent is we are part  
 6 of that system, so of course we're  
 7 accountable and have a role to play within  
 8 that.  
 9 Q. I'm not saying a role; I'm  
 10 talking about responsibility. You have  
 11 responsibility, right?  
 12 You have to -- you accept  
 13 partial responsibility for this epidemic,  
 14 correct?  
 15 MS. HENN: Objection to form.  
 16 THE WITNESS: Accept  
 17 responsibility for the role that we  
 18 have, and I clearly know there's an  
 19 epidemic.  
 20 QUESTIONS BY MR. RAFFERTY:  
 21 Q. Well, you -- and you know it's  
 22 as a result of the diversion of narcotics,  
 23 right?  
 24 MS. HENN: Objection to form.  
 25 THE WITNESS: Clearly that's

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1 part of it.  
2 QUESTIONS BY MR. RAFFERTY:  
3 Q. Clearly.  
4 And clearly you sell an awful  
5 lot of narcotics. You, McKesson, sell an  
6 awful lot of narcotics in the United States,  
7 right?  
8 A. We do.  
9 Q. And in fact, you've been -- you  
10 have faced investigations by the DEA and the  
11 Department of Justice in regards to your  
12 failure to prevent diversion of those  
13 narcotics in America, true?  
14 MS. HENN: Objection to form.  
15 THE WITNESS: Could you restate  
16 that?  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. You have -- you, as McKesson,  
19 you, McKesson --  
20 A. Yeah.  
21 Q. -- has faced investigations for  
22 McKesson's failure, while selling narcotics  
23 across America, for failing to prevent  
24 diversion of those narcotics in America.  
25 MS. HENN: Objection to form.

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. Correct?  
3 A. We faced those allegations and  
4 held in terms.  
5 Q. Right.  
6 And those allegations, we're  
7 going to get into those allegations in a bit.  
8 But in those -- in those allegations, or  
9 after those allegations were made, after  
10 those investigations, McKesson paid a fine of  
11 \$13.25 million in 2008, correct?  
12 A. Correct.  
13 Q. And in 2017 paid a  
14 record-setting \$150 million fine, correct?  
15 A. That's correct.  
16 Q. And in 2017, in the 2017  
17 settlement -- you've reviewed that, right?  
18 A. I have.  
19 Q. You were actually there as  
20 senior director of regulatory affairs during  
21 the time that McKesson was being investigated  
22 and at the time that that -- that agreement  
23 was entered into between McKesson and the  
24 Department of Justice, right?  
25 MS. HENN: Objection to form.

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1 THE WITNESS: I was there  
2 during -- during that time.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. Okay. And in fact, in that  
5 agreement, in that -- in the 2017 settlement,  
6 McKesson accepted responsibility for the --  
7 for failing to prevent diversion, according  
8 to that -- according to the allegations  
9 brought, correct?  
10 MS. HENN: Objection to form.  
11 THE WITNESS: We accepted  
12 responsibility for certain -- certain  
13 orders and things like that. We did  
14 accept responsibility in part.  
15 QUESTIONS BY MR. RAFFERTY:  
16 Q. Okay. And when we say "accept  
17 responsibility," you mean accept  
18 responsibility for failing to prevent the  
19 diversion of narcotics in America, right?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: Certain scenarios  
22 related to suspicious orders.  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. Let me ask that again. When we  
25 say "accept responsibility," you mean accept

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1 responsibility for failing to prevent the  
2 diversion of narcotics in America. That's  
3 what you were accepting responsibility for in  
4 the 2017 settlement agreement, true?  
5 MS. HENN: Objection to form.  
6 THE WITNESS: Again, I'd like  
7 to look at, I mean, the language. I  
8 know we accepted --  
9 QUESTIONS BY MR. RAFFERTY:  
10 Q. You don't know?  
11 A. No, I do. We accepted  
12 responsibility --  
13 Q. For --  
14 A. -- you know.  
15 Q. The allegations in that, you  
16 know what the allegations were, right?  
17 A. Right.  
18 Q. And they surround McKesson's  
19 failure to prevent diversion in America,  
20 diversion of narcotics in America, true?  
21 MS. HENN: Objection to form.  
22 QUESTIONS BY MR. RAFFERTY:  
23 Q. You know that.  
24 MS. HENN: Objection to form.  
25 THE WITNESS: I understand,

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1 related to maintaining effective  
2 controls in certain situations with  
3 suspicious orders, yes.  
4 QUESTIONS BY MR. RAFFERTY:  
5 Q. Suspicious orders which then  
6 allowed drugs to be diverted in the United  
7 States, true?  
8 MS. HENN: Objection to form.  
9 THE WITNESS: That can be the  
10 case. Not every suspicious order is  
11 diversion.  
12 QUESTIONS BY MR. RAFFERTY:  
13 Q. Why do you report suspicious  
14 orders, Mr. Hartle? Is it just to check the  
15 box kind of thing?  
16 MS. HENN: Objection to form.  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. Why is there a requirement by  
19 the DEA and the DOJ that has been in place  
20 since 1971 under the Controlled Substances  
21 Act to report suspicious orders?  
22 MS. HENN: Objection to form.  
23 THE WITNESS: It's one of the  
24 things intended to prevent diversion.  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. There you go.  
3 And in fact, what happens when  
4 you fill suspicious orders, they get diverted  
5 into illegal uses and feed the epidemic in  
6 the United States, true?  
7 MS. HENN: Objection to form.  
8 THE WITNESS: Again, that can  
9 happen.  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. Okay.  
12 A. That can be, but not all  
13 suspicious orders per the regulations are  
14 diversion, diverted.  
15 Q. Now, you know that since  
16 2002 -- since 2002, the diversion of  
17 narcotics in the United States has resulted  
18 in an epidemic in the United States and  
19 incalculable costs to society.  
20 Would you agree with that  
21 statement?  
22 MS. HENN: Objection to form.  
23 THE WITNESS: Can you say it  
24 once again, please?  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. Yeah.  
3 The costs are so high as a  
4 result of the epidemic in the United States  
5 of the use of narcotics that the GAO  
6 specifically said, "Diversion is a  
7 multi-billion dollar illicit market  
8 nationwide, and diversion is causing  
9 incalculable costs to society."  
10 Have you ever seen that?  
11 MS. HENN: Objection to form.  
12 THE WITNESS: I've not seen  
13 that specific language, but I  
14 understand what you're talking about.  
15 It's a number that's very difficult to  
16 calculate and assumed to be very, very  
17 large.  
18 (McKesson-Hartle Exhibit 45  
19 marked for identification.)  
20 QUESTIONS BY MR. RAFFERTY:  
21 Q. I'm attaching Exhibit 45, the  
22 May of 2002 GAO report.  
23 Did you ever see a copy of  
24 this? And it's a long document. I'm going  
25 to just refer you to one particular piece.

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1 A. I don't think I've seen this  
2 specific document, no.  
3 Q. You've never reviewed this? In  
4 the five years you've been involved in  
5 monitoring the narcotics being sold by  
6 McKesson, you never went back and reviewed  
7 any of this?  
8 MS. HENN: Objection to form.  
9 THE WITNESS: I don't recall  
10 this specific one.  
11 QUESTIONS BY MR. RAFFERTY:  
12 Q. All right.  
13 A. I don't.  
14 Q. Take a look at page --  
15 MR. RAFFERTY: For the record,  
16 that was P1.1076, which is now  
17 Exhibit 45 to the deposition.  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. And if you could, look at the  
20 cover page --  
21 MR. RAFFERTY: Oh, I need the  
22 computer back, please.  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. You see that, the GAO? Are you  
25 familiar with the GAO?

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1 A. I am.  
2 Q. United States government  
3 accounting office?  
4 A. It's a part of some of the work  
5 in my previous career.  
6 Q. Okay. In May 2002,  
7 "Prescription drug state monitoring programs  
8 provide useful tools to reduce diversion."  
9 Do you see that?  
10 A. I see that.  
11 Q. Okay. And then if you turn to  
12 .6, "The diversion" -- down in background.  
13 It says, "The diversion and abuse" --  
14 You see where it starts to say  
15 that?  
16 A. I do.  
17 Q. Why don't you read that first  
18 sentence for me out loud.  
19 A. "The diversion and abuse of  
20 prescription drugs are associated with  
21 incalculable costs to society in terms of  
22 addiction, overdose, death and related  
23 criminal activities."  
24 Q. And then the next sentence?  
25 A. "DEA has stated that the

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1 diversion and abuse of legitimately produced  
2 controlled pharmaceuticals constitute a  
3 multi-billion dollar illicit market  
4 nationwide."  
5 Q. Now that's in 2002, some  
6 16 years ago, right?  
7 A. Correct.  
8 Q. And McKesson at that time is  
9 selling throughout the country narcotic  
10 painkillers, correct?  
11 A. They were.  
12 Q. And they continue to today,  
13 correct?  
14 A. We do.  
15 Q. Now, fast-forwarding for just a  
16 moment to 2015, you were shown, I believe, a  
17 portion of this presentation, or you've seen  
18 this presentation, at least a portion of it.  
19 (McKesson-Hartle Exhibit 46  
20 marked for identification.)  
21 QUESTIONS BY MR. RAFFERTY:  
22 Q. This will be Exhibit P1.851,  
23 which will be Exhibit 46 to the deposition.  
24 Do you recall being shown this  
25 presentation earlier?

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1 A. I do remember this from  
2 yesterday.  
3 Q. Okay.  
4 MR. RAFFERTY: If we could pull  
5 it up, Corey, please. 1.851.  
6 Not that one. That's 84.  
7 1.851.  
8 There we go. All right.  
9 QUESTIONS BY MR. RAFFERTY:  
10 Q. "State of prescription drug  
11 abuse." Once again, I'll tell you that the  
12 metadata -- because there's no date on this  
13 once again, but the metadata indicates that  
14 this was created September 30, 2015.  
15 Okay?  
16 A. Okay.  
17 Q. All right. At that time you  
18 were there at McKesson, senior director of  
19 regulatory affairs, right?  
20 A. I was.  
21 Q. And you know Gary Boggs?  
22 A. I do know Gary.  
23 Q. He was the senior director in  
24 charge of the east -- the east region,  
25 correct?

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1 MS. HENN: Objection to form.  
2 THE WITNESS: He was and still  
3 is.  
4 QUESTIONS BY MR. RAFFERTY:  
5 Q. Okay. Now, in talking about  
6 the state of prescription drug abuse, down  
7 here at the bottom of this, if you look at  
8 that cover page, it says, "Privileged and  
9 confidential. For internal use only."  
10 Do you see that?  
11 A. I see that.  
12 Q. So this wasn't something that  
13 McKesson was willing to share with the public  
14 or outside of McKesson, right? What's  
15 written in these pages is for internal  
16 purposes only --  
17 MS. HENN: Objection.  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. -- not to be shared outside the  
20 walls of McKesson.  
21 MS. HENN: Objection to form.  
22 THE WITNESS: That's what that  
23 label infers.  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. I mean --



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1 A. I know what it means.  
2 Q. You've put it on some of your  
3 presentations, haven't you?  
4 A. It's been on some.  
5 Q. Okay. And that's what that  
6 means. It means don't share it with anybody  
7 outside the walls of McKesson, right?  
8 MS. HENN: Objection to form.  
9 THE WITNESS: Yes.  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. All right. Let's look at what  
12 Mr. Boggs says in this in terms of the costs  
13 associated with this epidemic.  
14 If you would, turn to page .7.  
15 A. Can I ask a clarifying  
16 question? You mentioned 2015.  
17 Q. Yeah.  
18 A. Maybe I'm wrong, but I thought  
19 yesterday we were talking about 2013, right  
20 around the time that when Gary joined.  
21 Q. I don't -- all I can tell you  
22 is what the -- the material that was provided  
23 to me by McKesson and their counsel --  
24 A. Okay.  
25 Q. -- indicates that this was

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1 produced in September of 2015.  
2 A. Okay.  
3 Q. Okay?  
4 A. Okay.  
5 Q. If you look at .7, you see that  
6 chart? And you see how -- that line there,  
7 the top line, as sales increase so do opioid  
8 deaths going all the way back to 1999?  
9 A. I see that chart.  
10 Q. And in fact, increasing also in  
11 addition to the deaths are opioid treatment  
12 admissions.  
13 You see that?  
14 A. I've seen this before.  
15 Q. And your sale of narcotics --  
16 when I say "your," I mean McKesson.  
17 McKesson's sales of narcotic painkillers had  
18 increased over that period of time, true?  
19 MS. HENN: Objection to form.  
20 THE WITNESS: True. I don't  
21 know if I've seen the exact rate  
22 and -- you know, in this context, but  
23 true.  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. Right.

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1 And then if you go to .24, "A  
2 national epidemic. More than 45 people die  
3 per day" -- I'm sorry, I'll wait until you  
4 get there.  
5 A. 24, you said?  
6 Q. .24, sir.  
7 A. Okay. Sorry.  
8 Q. You there?  
9 A. I am.  
10 Q. "A national epidemic. More  
11 than 45 people die per day from prescription  
12 opioids, from 4,030 in '99 to 16,651 in  
13 2010."  
14 You see that?  
15 A. I do see that.  
16 Q. "One in 20 people in the US  
17 reported using prescription painkillers  
18 nonmedically in the past year. 6,700 new  
19 initiates per day, per day, in 2012." That  
20 means 60 -- well, tell me what that means,  
21 6,700 new initiates.  
22 MS. HENN: Objection to form.  
23 THE WITNESS: I'm not  
24 100 percent sure, but I'm assuming 67  
25 new -- they were taking prescriptions

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1 for the first time.  
2 QUESTIONS BY MR. RAFFERTY:  
3 Q. Prescription opioids?  
4 A. Opioids.  
5 Q. Or nonprescription opioids,  
6 right?  
7 MS. HENN: Objection to form.  
8 QUESTIONS BY MR. RAFFERTY:  
9 Q. Taking opioids, right?  
10 MS. HENN: Objection to form.  
11 THE WITNESS: I believe to be  
12 that -- what that means.  
13 QUESTIONS BY MR. RAFFERTY:  
14 Q. Okay. And then it says down  
15 there -- so here, McKesson, through Gary  
16 Boggs, actually estimates the economic impact  
17 to America being greater than \$57 billion per  
18 year.  
19 Did I read that right?  
20 A. That's what it says.  
21 Q. Now, we talked earlier about  
22 some of the --  
23 MS. HENN: Objection to form.  
24 Belated. The last question.  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. Okay. All right. We talked a  
3 little bit earlier about the rights or --  
4 excuse me, strike that.  
5 We talked a little bit earlier  
6 about the duties and responsibilities that  
7 come along with selling and distributing  
8 narcotics in the United States.  
9 Do you recall that?  
10 A. We have talked about that.  
11 Q. Okay. In fact, distributors  
12 and wholesalers of narcotics have a great  
13 responsibility to help prevent the diversion  
14 and stop the diversion of narcotics in  
15 America, true?  
16 MS. HENN: Objection to form.  
17 MR. SUDDATH: Objection.  
18 THE WITNESS: I think everyone  
19 in the closed distribution has a great  
20 responsibility to prevent diversion.  
21 QUESTIONS BY MR. RAFFERTY:  
22 Q. Including the wholesalers and  
23 distributors such as McKesson, correct?  
24 MS. HENN: Objection to form.  
25 THE WITNESS: We're included in

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1 that, correct.  
2 QUESTIONS BY MR. RAFFERTY:  
3 Q. If we look at the second page  
4 of Mr. Boggs' presentation, it says, "The  
5 impact of effective compliance."  
6 Do you see that?  
7 A. I see that title.  
8 Q. Effective compliance and what  
9 impact it can have in America, right?  
10 MS. HENN: Objection to form.  
11 QUESTIONS BY MR. RAFFERTY:  
12 Q. It says, "Protecting America  
13 from prescription drug diversion," right?  
14 That's what it says at the top?  
15 A. It does.  
16 Q. Okay. And then after that it  
17 says, "The impact of effective compliance,"  
18 right?  
19 A. It does.  
20 Q. Okay. So compliance in regards  
21 to diversion, right?  
22 MS. HENN: Objection to form.  
23 THE WITNESS: I believe that's  
24 the core of his presentation.  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. Okay. If we could, let's go  
3 to --  
4 MS. HENN: Counsel, I just  
5 wanted to make one clarifying note.  
6 Yesterday Mr. Farrell said that  
7 the McKesson metadata for this  
8 document indicated that the  
9 presentation date is late 2013. So  
10 there's some discrepancy between what  
11 he said and what you said.  
12 MR. RAFFERTY: I say it's  
13 September 2015.  
14 MS. HENN: Just wanted to make  
15 that clear for the record because the  
16 witness had noted that he recalled  
17 that.  
18 MR. RAFFERTY: I'm sorry, I  
19 didn't mean to interrupt you,  
20 Ms. Henn.  
21 MS. HENN: That's all right.  
22 QUESTIONS BY MR. RAFFERTY:  
23 Q. Does that change your testimony  
24 in regards to that document we went through?  
25 A. No, it doesn't change my

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1 testimony. I just wanted to be clear of the  
2 timing in terms of, you know, Gary's role,  
3 when he came on board with McKesson and the  
4 context of the presentation.  
5 Q. But it doesn't change your  
6 testimony, true?  
7 A. It doesn't change my testimony.  
8 Q. Okay. If we could, let's go to  
9 .8 of the presentation. "The Controlled  
10 Substances Act. Congress" --  
11 You there?  
12 A. Yeah. Sorry.  
13 Q. "The Controlled Substances  
14 Act." Talked about that earlier. That's the  
15 act that was passed by United States Congress  
16 in 1971.  
17 You recall that, right?  
18 A. I do.  
19 Q. Okay. "Congress carve out for  
20 controlled substances. Establishes a closed  
21 system of distribution."  
22 Closed system. That means not  
23 everybody can come in and just start selling  
24 and distributing narcotic painkillers, right?  
25 A. Correct.

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1 Q. Okay. "Creates checks and  
2 balances between registrants to protect the  
3 public health and safety."  
4 Registrants. That is the  
5 people who are allowed to manufacture, sell  
6 and distribute narcotics, correct?  
7 A. Yes.  
8 Q. Okay. Of which McKesson is  
9 one, correct?  
10 A. We are.  
11 Q. Okay. And the purpose of the  
12 Controlled Substance Act was to protect the  
13 public health and safety, correct?  
14 MS. HENN: Objection to form.  
15 THE WITNESS: It's one of the  
16 overriding purposes.  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. And since 1971 and the passage  
19 of the Controlled Substances Act -- if you  
20 turn to page .9, here Mr. Boggs has "Checks  
21 and Balances Under the CSA." Distributors of  
22 controlled substances, and then it lays out a  
23 quote from the Controlled Substances Act.  
24 Do you see that?  
25 A. I do.

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1 Q. Okay. "The registrant shall  
2 design and operate a system to disclose to  
3 the registrant suspicious orders of  
4 controlled substances. Suspicious orders  
5 include orders of unusual size, orders  
6 deviating substantially from a normal pattern  
7 and orders of unusual frequency."  
8 Do you see that?  
9 A. I see that.  
10 Q. And you agree that is a section  
11 from the Controlled Substances Act that has  
12 been in place since 1971, true?  
13 A. Yes.  
14 Q. Okay. Now, in terms of the --  
15 MS. HENN: Objection to form.  
16 Sorry.  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. In terms of the ability --  
19 well, let's turn to page 13. "What can  
20 happen when these checks and balances  
21 collapse."  
22 Do you see that?  
23 A. I see that.  
24 Q. When there's -- so the title of  
25 this presentation is "Protecting America from

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1 Prescription Drug Diversion: The Impact of  
2 Effective Compliance."  
3 So what this is saying is when  
4 there's not effective compliance of the  
5 Controlled Substance Act, disasters can  
6 happen, right?  
7 MS. HENN: Objection to form.  
8 QUESTIONS BY MR. RAFFERTY:  
9 Q. That shows a building  
10 collapsing, correct?  
11 MS. HENN: Objection to form.  
12 THE WITNESS: It does show a  
13 building collapsing. I'm not sure  
14 what the speaking points and the  
15 context was exactly, but it shows a  
16 building collapsing.  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. You can't get the general  
19 import of that particular slide from this?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: I understand --  
22 QUESTIONS BY MR. RAFFERTY:  
23 Q. And it means that if there's  
24 not effective compliance, then it can result  
25 in catastrophe, disaster, that type of thing,

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1 correct?  
2 MS. HENN: Objection to form.  
3 THE WITNESS: Something bad, of  
4 course.  
5 QUESTIONS BY MR. RAFFERTY:  
6 Q. Something really bad?  
7 MS. HENN: Objection to form.  
8 QUESTIONS BY MR. RAFFERTY:  
9 Q. That's not just bad. You see  
10 the building collapsing?  
11 Do you consider that bad or  
12 catastrophic?  
13 MS. HENN: Objection to form.  
14 THE WITNESS: I consider that  
15 bad.  
16 QUESTIONS BY MR. RAFFERTY:  
17 Q. Bad. Okay.  
18 A. Yeah, I don't -- however you  
19 want to phrase it, it's --  
20 Q. No, that's -- hey, you're the  
21 one testifying. Mr. Hartle thinks that this  
22 is bad.  
23 Okay. So we go to now your  
24 ability to try to prevent that collapse.  
25 Do you see the word there,

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1 "collapse"?

2 A. I see that.

3 Q. McKesson has a particular

4 ability or power as a distributor to prevent

5 that collapse, don't they?

6 MS. HENN: Objection to form.

7 THE WITNESS: We have a role in

8 prevention.

9 QUESTIONS BY MR. RAFFERTY:

10 Q. An important role?

11 A. Important, absolutely.

12 Q. Yeah. Okay.

13 In fact, if we go to page .37,

14 do you see there it says, "Distributors have

15 great power"? Not just power, but great

16 power.

17 Do you see that?

18 A. I see that.

19 Q. And you agree with that, right?

20 MS. HENN: Objection to form.

21 QUESTIONS BY MR. RAFFERTY:

22 Q. Distributors have great power

23 when it comes to the ability to prevent the

24 diversion of narcotics in the United States?

25 MS. HENN: Objection to form.

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1 THE WITNESS: I don't know if I

2 would phrase it as great power, but an

3 important role, absolutely.

4 QUESTIONS BY MR. RAFFERTY:

5 Q. Okay. Well, Mr. Boggs referred

6 to it as great power. We can agree on that,

7 right?

8 MS. HENN: Objection to form.

9 THE WITNESS: He did. It's in

10 his deck.

11 QUESTIONS BY MR. RAFFERTY:

12 Q. And he's a senior director of

13 regulatory affairs, same hierarchical

14 position as you are, right?

15 MS. HENN: Objection to form.

16 QUESTIONS BY MR. RAFFERTY:

17 Q. What we saw there back in 2015?

18 A. He is.

19 Q. Okay. And what he describes as

20 great control -- or I'm sorry, great power is

21 it says you control the supply to downstream

22 customers.

23 Do you see that last bullet

24 point there?

25 A. I do.

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1 Q. And it's true, right? If you

2 don't sell -- if you hold back an order, you

3 don't sell a suspicious order or ship a

4 suspicious order, that order can't be

5 diverted, right?

6 A. That particular one from us

7 can't.

8 Q. That's right.

9 And that's the reason -- I

10 think you agreed with me earlier, that's the

11 reason you report and -- you monitor and

12 report suspicious orders. Because if you

13 determine there's a suspicious order, you

14 don't ship or you're not -- or let me

15 rephrase that -- you're not supposed to ship

16 it, right?

17 MS. HENN: Objection to form.

18 THE WITNESS: Can you ask the

19 question again?

20 QUESTIONS BY MR. RAFFERTY:

21 Q. Yeah. Yeah.

22 That's the reason, you agreed

23 with me earlier, that monitoring for

24 suspicious orders and reporting suspicious

25 orders is not just a check-the-box type of

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1 issue, right? It's not -- it plays an

2 important role in preventing diversion?

3 MS. HENN: Objection to form.

4 THE WITNESS: It does.

5 QUESTIONS BY MR. RAFFERTY:

6 Q. Okay.

7 A. Or it can and -- it can.

8 Q. Right.

9 Because according to the

10 regulations, if you are effectively complying

11 with the regulations, once you determine

12 there's a suspicious order, you, as the

13 distributor, McKesson, is not supposed to

14 ship that order, right?

15 MS. HENN: Objection to form.

16 THE WITNESS: It depends. I

17 know there's other -- there's been

18 different -- there's different

19 programs, but...

20 QUESTIONS BY MR. RAFFERTY:

21 Q. It depends. Once you

22 determine -- once McKesson determines an

23 order is a suspicious order, McKesson is not

24 supposed to ship that order, true?

25 A. We don't ship that order,



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1 right.  
 2 Q. Well, you actually have faced  
 3 several investigations and paid massive fines  
 4 because you did ship suspicious orders,  
 5 haven't you?  
 6 MS. HENN: Objection to form.  
 7 THE WITNESS: In the context of  
 8 our program today, we have a system  
 9 that blocks those orders.  
 10 QUESTIONS BY MR. RAFFERTY:  
 11 Q. Okay. My question was: You  
 12 have faced investigations and paid fines  
 13 based on the fact that McKesson shipped  
 14 suspicious orders, correct?  
 15 MS. HENN: Objection to form.  
 16 THE WITNESS: Those were the  
 17 allegations in those --  
 18 QUESTIONS BY MR. RAFFERTY:  
 19 Q. And you accepted --  
 20 A. -- and we accepted  
 21 responsibility on the last one.  
 22 Q. And paid \$150 million fine as a  
 23 result, right?  
 24 A. We did.  
 25 Q. Okay. But getting back to my

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1 question, you are not supposed -- under the  
 2 law, McKesson, once they determine an order  
 3 is suspicious, is not supposed to ship that  
 4 order, correct?  
 5 MS. HENN: Objection to form.  
 6 THE WITNESS: Correct. You're  
 7 not -- you shouldn't ship suspicious  
 8 orders.  
 9 QUESTIONS BY MR. RAFFERTY:  
 10 Q. Right.  
 11 And if you effectively comply  
 12 and you don't ship a suspicious order, then  
 13 that order can't been diverted into illegal  
 14 use, true?  
 15 MS. HENN: Objection to form.  
 16 THE WITNESS: Correct.  
 17 QUESTIONS BY MR. RAFFERTY:  
 18 Q. Okay. Turning to the next  
 19 page, "With great power comes great  
 20 responsibility."  
 21 Do you see that?  
 22 A. I see that.  
 23 Q. And you agree with that, right?  
 24 As a result of being a  
 25 distributor and having great power in regards

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1 to the ability to prevent diversion of  
 2 narcotics in America, you have great  
 3 responsibility, right?  
 4 MS. HENN: Objection to form.  
 5 THE WITNESS: Again, I don't  
 6 know if I'd phrase it personally as  
 7 great power, but we have an important  
 8 responsibility, absolutely.  
 9 QUESTIONS BY MR. RAFFERTY:  
 10 Q. Okay. And when you do comply,  
 11 if there is effective compliance with the  
 12 Controlled Substances Act and your  
 13 responsibilities under that Controlled  
 14 Substances Act, it works and diversion  
 15 decreases, right?  
 16 MS. HENN: Objection to form.  
 17 THE WITNESS: It can decrease.  
 18 I mean, prevention is not a --  
 19 necessarily a measurable thing all the  
 20 time, but that's the idea.  
 21 QUESTIONS BY MR. RAFFERTY:  
 22 Q. That's the idea, that's the  
 23 plan, right?  
 24 A. In general, that's the concept.  
 25 Q. That's why the Controlled

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1 Substances Act is in place, right?  
 2 MS. HENN: Objection to form.  
 3 THE WITNESS: It's one of the  
 4 reasons why it's in place, sure.  
 5 QUESTIONS BY MR. RAFFERTY:  
 6 Q. All right. Turning to page 46,  
 7 "What else impacts diversion?"  
 8 Sorry, I'll let you get there.  
 9 Do you see that, "What else  
 10 impacts diversion?"  
 11 A. I do.  
 12 Q. We're still in your  
 13 colleague's, Mr. Boggs', presentation, right?  
 14 A. We are.  
 15 Q. Okay. And for the record,  
 16 Mr. Boggs, you know, was formerly with the  
 17 DEA before being hired by McKesson, right?  
 18 A. I'm aware of that.  
 19 Q. And involved in diversions with  
 20 the FDA {sic} or for the FDA, right?  
 21 MS. HENN: Objection to form.  
 22 QUESTIONS BY MR. RAFFERTY:  
 23 Q. Diversion compliance?  
 24 A. For the DEA, not the FDA.  
 25 Q. For the -- did I say FDA?

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1 A. You did.  
2 Q. For --  
3 A. I want to be accurate.  
4 Q. He was formerly -- no, I  
5 appreciate that. Thank you.  
6 A. Yeah.  
7 Q. Let me rephrase it so the  
8 record is clear.  
9 Mr. Boggs was formerly involved  
10 in the diversion compliance with the DEA,  
11 correct?  
12 A. Yes, he was part of the Office  
13 of Diversion Control.  
14 Q. Let's see what Mr. Boggs says  
15 here about "what else impacts diversion."  
16 "Compliance," and there's one,  
17 two, three, four -- seven exclamation points  
18 after that.  
19 Do you see that, "compliance"?  
20 A. I do.  
21 Q. That's what -- what he's  
22 talking about there is compliance with the  
23 Controlled Substances Act, true?  
24 MS. HENN: Objection to form.  
25 THE WITNESS: I can make some

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1 assumptions, yeah. I wasn't -- yeah.  
2 QUESTIONS BY MR. RAFFERTY:  
3 Q. Well, it's not tough, is it? I  
4 mean --  
5 A. I wasn't there. I didn't  
6 prepare it, but I believe that's probably the  
7 case, yeah.  
8 Q. Okay. All right.  
9 "The checks and balances  
10 created by the controlled" -- what's that  
11 word, those words? -- "Controlled Substances  
12 Act work," right?  
13 MS. HENN: Objection to form.  
14 QUESTIONS BY MR. RAFFERTY:  
15 Q. Why don't you read the -- we'll  
16 just strike that.  
17 Read that first bullet point  
18 under "Compliance" with the seven exclamation  
19 points.  
20 A. "The checks and balances  
21 created by the Controlled Substances Act  
22 work."  
23 Q. The next bullet point?  
24 A. "Registrants are a  
25 force-multiplier."

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1 Q. And the final one, will you  
2 read that?  
3 A. "Without sustained sources of  
4 supply, major diversion schemes wither away."  
5 Q. "Without sustained sources of  
6 supply," what he's talking about there is  
7 supply of narcotics, right?  
8 MS. HENN: Objection to form.  
9 THE WITNESS: Correct.  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. Okay. "Major diversion schemes  
12 wither away." That means diversion  
13 decreases, right?  
14 A. That's the idea.  
15 Q. That's the idea.  
16 So if there's effective  
17 compliance, diversion decreases, true?  
18 MS. HENN: Objection to form.  
19 THE WITNESS: Again, I think  
20 that's the idea. I didn't present it.  
21 I don't know what his speaking points  
22 were, but that's a general idea.  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. Pretty common sense, isn't it?  
25 Even for somebody not in -- not senior

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1 regulatory affairs director for a distributor  
2 of narcotics, it's pretty straight common  
3 sense, right?  
4 A. It's fairly common sense,  
5 right.  
6 Q. Okay. And the same would be  
7 also fairly common sense, and that is if you  
8 don't effectively comply with the Controlled  
9 Substances Act, then the opposite happens and  
10 diversion increases, correct?  
11 MS. HENN: Objection to form.  
12 THE WITNESS: Diversion can  
13 increase. I don't know if there's an  
14 exact, you know --  
15 QUESTIONS BY MR. RAFFERTY:  
16 Q. Well, once again, it --  
17 A. It's an option. I understand  
18 what you're saying.  
19 Q. And it's true, right?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: It can be true,  
22 yes.  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. Okay. Now, one of the reasons  
25 that this has -- that McKesson has great

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1 power, as that is phrased by Mr. Boggs, is  
 2 because as McKesson you service 25,000  
 3 customers in US pharma for narcotics,  
 4 correct?  
 5 MS. HENN: Objection to form.  
 6 THE WITNESS: I don't -- the  
 7 exact -- if that's the exact right  
 8 number. That's the ballpark number,  
 9 yeah.  
 10 (McKesson-Hartle Exhibit 47  
 11 marked for identification.)  
 12 QUESTIONS BY MR. RAFFERTY:  
 13 Q. All right. Let's take a look  
 14 at 1.1455. This is a presentation that you  
 15 gave, and, once again, there is a habit  
 16 evidently at McKesson of not putting dates on  
 17 things. We don't have a date on this one, so  
 18 the metadata according to our records  
 19 produced by McKesson indicate that this was  
 20 done in August of 2014. August 20, 2014.  
 21 A. August 2014.  
 22 Q. That would have been a few  
 23 months after you started, right? If you  
 24 started --  
 25 A. Right. I started in May.

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1 Q. And we will mark this as  
 2 Exhibit 47, I believe.  
 3 MR. RAFFERTY: Okay. For the  
 4 record, this is P1.1455, which is now  
 5 Exhibit 47 to the deposition.  
 6 QUESTIONS BY MR. RAFFERTY:  
 7 Q. Do you recognize this  
 8 particular document, sir?  
 9 A. I do. These are -- yeah, these  
 10 are notes as I prepare to give presentations.  
 11 Q. Right. These are your speaker  
 12 notes, for example, for a corresponding  
 13 PowerPoint slide, right?  
 14 A. Correct.  
 15 Q. Okay. Because it says  
 16 "slide 1" there up at the top, right?  
 17 A. Correct.  
 18 Q. Okay. RNA VP. That's you,  
 19 right?  
 20 A. No.  
 21 Q. Okay. Who is that?  
 22 A. So within that retail national  
 23 accounts or chain segment, each chain has  
 24 a -- there's vice presidents that manage the  
 25 relationships with the chains. So they own

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1 the relationship to the chain.  
 2 Q. Okay. So do you know who that  
 3 person was at this time, RNA VP?  
 4 A. There are multiple RNA VPs, and  
 5 this is the presentation that is given at  
 6 different times to different chains, so I'm  
 7 not sure which one it would be --  
 8 Q. Okay. So whoever -- whoever it  
 9 is --  
 10 A. -- of that chain.  
 11 Q. -- of that chain at that time?  
 12 A. Correct.  
 13 Q. Okay.  
 14 A. Correct.  
 15 Q. It goes down and it says, "My  
 16 name is Nate Hartle." That's you?  
 17 A. Right.  
 18 Q. We know that?  
 19 A. Right.  
 20 Q. Okay. "And I am senior  
 21 director of regulatory affairs for McKesson  
 22 dedicated to our retail national accounts."  
 23 Do you see that?  
 24 A. Right.  
 25 Q. "My background is in retail in

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1 the assets protection and corporate security  
 2 world, and I have experience and knowledge in  
 3 the diversion space, including leading  
 4 efforts focused on both internal theft and  
 5 the CSMP on the dispensing side."  
 6 Do you see that?  
 7 A. I see that.  
 8 Q. You were with Target before you  
 9 started at McKesson, right?  
 10 A. I was.  
 11 Q. Okay. Were you in -- did you  
 12 have a role or were you in charge of the  
 13 diversion of narcotics compliant -- the  
 14 compliance with the regulations of the  
 15 diversion of narcotics while at Target?  
 16 A. While at Target, there was  
 17 multiple functions involved in pharmacy. I  
 18 had a very specific team that was focused on,  
 19 you know, monitoring diversion, monitoring  
 20 dispensing across the stores. So I played a  
 21 role.  
 22 We investigated internal theft.  
 23 We monitored -- we worked internally to  
 24 create training and education and awareness.  
 25 So I played a role along with other

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1 components within Target.  
2 Q. Okay.  
3 MR. RAFFERTY: Let's go to .5  
4 of this presentation, Corey.  
5 QUESTIONS BY MR. RAFFERTY:  
6 Q. So this is being given to the  
7 retail chains, right?  
8 A. So these presentations are  
9 given to -- were given initially to retail  
10 chains in -- when I first joined the team.  
11 And I will -- to add some context to this, as  
12 I prepared, these were not read word for  
13 word. This is me preparing and using as a  
14 guideline.  
15 Q. I understand.  
16 A. So this is not a presentation;  
17 it's just speaking points. But I -- so I  
18 wanted you to understand.  
19 Q. I wasn't suggesting it was.  
20 A. Right.  
21 Q. But this is something that you  
22 wrote, right?  
23 A. It is.  
24 Q. Okay. If you turn to page 5,  
25 "Have any of you or your teams had a chance

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1 to attend any of the DEA sessions or heard  
2 Joe Rannazzisi speak?"  
3 Do you see that?  
4 A. I do.  
5 Q. Mr. Rannazzisi, he's with the  
6 DEA, right?  
7 A. He was.  
8 Q. Was.  
9 And he's the one that actually  
10 wrote those letters back in 2006 and 2007  
11 reiterating what your responsibilities are  
12 under the Controlled Substances Act, true?  
13 MS. HENN: Objection to form.  
14 THE WITNESS: He wrote those.  
15 QUESTIONS BY MR. RAFFERTY:  
16 Q. Okay.  
17 A. They came from him, sure.  
18 Q. Okay. And it says here,  
19 "Again, our intent is to share our intel with  
20 you because we have a unique national view."  
21 You would agree with that,  
22 right? As a distributor, a national  
23 distributor, you have a unique national view  
24 as it comes to narcotic distribution in the  
25 United States?

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1 MS. HENN: Objection to form.  
2 THE WITNESS: We do.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. Okay. "With more than 25,000  
5 customers, we have insight into trends so we  
6 want to share that with you through updates  
7 and interactions. We would also like to  
8 learn from you, so any trends or intel you  
9 may have would be valuable to us."  
10 Do you see that?  
11 A. I see that.  
12 Q. Okay. So 25,000 -- at least  
13 with the 25,000 customers, that's the number  
14 you used in your presentation, right?  
15 A. I did --  
16 Q. Okay.  
17 A. -- use that initially when I  
18 came on board.  
19 Q. And you wouldn't put it in  
20 there if you didn't think it was accurate,  
21 right?  
22 A. Yeah, I can't speak to where I  
23 pulled that from internally with McKesson,  
24 but...  
25 Q. So one of the other reasons

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1 you've got power -- so you've got 25,000  
2 customers. One of the other reasons you have  
3 great power is because one out of every three  
4 pills, prescription pills, taken in the  
5 United States is delivered to the pharmacy in  
6 trucks owned by McKesson with the McKesson  
7 emblem on it, right?  
8 MS. HENN: Objection to form.  
9 QUESTIONS BY MR. RAFFERTY:  
10 Q. One out of every three?  
11 MS. HENN: Objection to form.  
12 THE WITNESS: I think that's  
13 one out of every three prescriptions.  
14 QUESTIONS BY MR. RAFFERTY:  
15 Q. Prescriptions.  
16 A. Not pills. I think --  
17 Q. Okay. One out of every three  
18 prescriptions in the United States is  
19 delivered to the pharmacy by trucks owned by  
20 McKesson with McKesson logos on it, right?  
21 MS. HENN: Objection to form.  
22 THE WITNESS: I don't believe  
23 that's 100 percent accurate in terms  
24 of trucks owned by McKesson. We use  
25 other --

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. McKesson supplies --  
3 A. It comes from McKesson.  
4 Q. Sorry, I didn't mean to talk  
5 over you.  
6 McKesson supplies one out of  
7 every three prescriptions taken in the United  
8 States, correct?  
9 MS. HENN: Objection to form.  
10 THE WITNESS: That's what's in  
11 the company fact sheet.  
12 QUESTIONS BY MR. RAFFERTY:  
13 Q. Okay. And you don't have any  
14 reason to dispute that, right?  
15 A. I don't.  
16 Q. And in fact, in the year 2014  
17 when you started at McKesson, US pharma, the  
18 division that sells the narcotics throughout  
19 the country, the division that provides and  
20 produces one-third of every prescription in  
21 the United States, had \$104 billion in  
22 revenue, right?  
23 MS. HENN: Objection to form.  
24 THE WITNESS: Sounds about  
25 right. I don't know the exact

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1 numbers.  
2 QUESTIONS BY MR. RAFFERTY:  
3 Q. Okay. So if 25,000 customers  
4 providing -- or supplying one out of every  
5 three prescriptions in the United States, and  
6 making \$104 billion in revenue per year, that  
7 gives McKesson great power in its ability, if  
8 it chose to do so, to prevent diversion of  
9 narcotics in the United States.  
10 You would agree with that,  
11 right?  
12 MS. HENN: Objection to form.  
13 THE WITNESS: I'd agree that as  
14 a large distributor we have absolutely  
15 great responsibility based on our  
16 scale --  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. Yeah, the responsibility --  
19 A. -- and the number of customers.  
20 Q. I'm sorry.  
21 A. Based on the number of our  
22 customers.  
23 Q. Okay. And your asset -- and  
24 your financial ability, right, and the  
25 control you have over the number of

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1 prescriptions being dispensed, that gives you  
2 great power?  
3 MS. HENN: Objection to form.  
4 THE WITNESS: We don't have  
5 control of what's dispensed. We don't  
6 dispense anything.  
7 QUESTIONS BY MR. RAFFERTY:  
8 Q. Well, actually you do, don't  
9 you, because if you --  
10 MS. HENN: Just a note to try  
11 not to talk over each other, but go  
12 ahead with your question.  
13 QUESTIONS BY MR. RAFFERTY:  
14 Q. I'm sorry, you want to finish?  
15 A. And we -- pharmacies dispense.  
16 We distribute to those pharmacies, right.  
17 Q. Right.  
18 And if you don't dispense or if  
19 you don't -- maybe we're getting hung up on  
20 the word "dispense."  
21 If you don't ship an order,  
22 then that order -- that narcotic order can't  
23 be diverted, right?  
24 MS. HENN: Objection to form.  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. So you do have the ability to  
3 control that?  
4 MS. HENN: Objection to form.  
5 THE WITNESS: Pharmacies get  
6 products from a variety of  
7 distributors, so they may not be able  
8 to dispense the specific item from us.  
9 It does not mean they're not receiving  
10 it or could receive it from somewhere  
11 else.  
12 QUESTIONS BY MR. RAFFERTY:  
13 Q. So we might as well fill the  
14 suspicious order because somebody else will;  
15 is that McKesson's motto?  
16 MS. HENN: Objection to form.  
17 THE WITNESS: Not at all.  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. Okay.  
20 A. Just clarifying that we don't  
21 dispense.  
22 Q. But you supply, don't you?  
23 A. Of course. Absolutely.  
24 Q. Okay.  
25 MS. HENN: Counsel, we've been



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1 going over an hour. Would this be a  
2 good time for a quick break? We can  
3 make it five minutes.  
4 MR. RAFFERTY: I'll tell you,  
5 can I just finish this one document  
6 and then we can take ten?  
7 THE WITNESS: That's fine.  
8 That's okay.  
9 QUESTIONS BY MR. RAFFERTY:  
10 Q. You would agree with me,  
11 wouldn't you, Mr. Hartle, that when it comes  
12 to compliance under the Controlled Substances  
13 Act -- under -- under the Controlled  
14 Substances Act, McKesson is responsible for  
15 designing and operating a system to  
16 determine -- or to suspect -- or to identify  
17 suspicious orders, right?  
18 MS. HENN: Objection to form.  
19 THE WITNESS: That's the  
20 regulation, absolutely.  
21 QUESTIONS BY MR. RAFFERTY:  
22 Q. Okay. And -- but it is  
23 McKesson who decides ultimately whether an  
24 order is suspicious, right?  
25 A. Correct.

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1 Q. And, therefore, whether or not  
2 to ship that order, right?  
3 A. Correct.  
4 MR. RAFFERTY: Okay. We can  
5 take a break now.  
6 MS. HENN: Thank you.  
7 VIDEOGRAPHER: The time is  
8 10:16 a.m. We're going off the  
9 record.  
10 (Off the record at 10:16 a.m.)  
11 VIDEOGRAPHER: The time is  
12 10:29 a.m., and we're back on the  
13 record.  
14 MR. RAFFERTY: All right. Just  
15 a little housekeeping here.  
16 In a stunning twist of fate, I  
17 was actually wrong and Paul Farrell  
18 was right. The date on the Boggs'  
19 presentation, which is Exhibit 46 to  
20 the deposition, is September 30, 2013.  
21 MR. FARRELL: I'm sorry, Troy,  
22 I missed that.  
23 MS. HENN: Thank you, sir.  
24 THE WITNESS: Thank you.  
25 MR. RAFFERTY: It won't happen

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1 again. There's a first time for  
2 everything.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. Okay. Now, getting back to the  
5 questions.  
6 Mr. Hartle, so we talked  
7 earlier about the roles and responsibilities  
8 that McKesson has as a distributor of  
9 narcotics under the Controlled Substances  
10 Act.  
11 You would agree with me that in  
12 2006 Mr. Rannazzisi, who we just talked about  
13 a few minutes ago, on behalf of the United  
14 States Department of Justice and the Drug  
15 Enforcement Administration, sent a letter to  
16 all distributors and registrants reiterating  
17 the responsibilities and duties under the  
18 Controlled Substance Act, right?  
19 MS. HENN: Objection to form.  
20 THE WITNESS: Yes, he did send  
21 that.  
22 (McKesson-Hartle Exhibit 49  
23 marked for identification.)  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. Okay. All right. If we could

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1 1.1464, which will be exhibit -- excuse me --  
2 which will be Exhibit 49 to the deposition.  
3 Do you recognize this as being  
4 the letter that was sent to McKesson?  
5 A. I do.  
6 Q. Okay. And in the letter it  
7 specifically says at the top, "September 27,  
8 2006."  
9 Do you see that? Oh, no,  
10 it's 1.1464.  
11 All right. Looking at this  
12 particular letter, once again, it's dated  
13 September 27, 2006, right?  
14 A. Correct.  
15 Q. Okay. And he says here, "This  
16 letter is being sent to every commercial  
17 entity in the United States registered with  
18 the DEA to distribute controlled substances."  
19 Did I read that right?  
20 A. Yes.  
21 Q. "The purpose of this letter is  
22 to reiterate the responsibilities of  
23 controlled substance distributors in view of  
24 the prescription drug abuse problem our  
25 nation currently faces. "

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1 Did I read that right?

2 A. You did.

3 Q. And he specifically uses the

4 word "reiterate" there, true?

5 A. He does.

6 Q. Okay. These aren't new

7 responsibilities; he's reiterating what the

8 responsibilities are, correct?

9 MS. HENN: Objection to form.

10 THE WITNESS: Correct.

11 QUESTIONS BY MR. RAFFERTY:

12 Q. Okay. And as you go down, I'm

13 not going to go through the entire letter,

14 but let's look at the third full paragraph.

15 "The CSA was designed by Congress to combat

16 diversion by providing for a closed system of

17 drug distribution in which all legitimate

18 handlers of controlled substances must obtain

19 a DEA registration."

20 That's the closed system we

21 talked about earlier, right?

22 A. It is.

23 Q. "As a condition of maintaining

24 such registration, must take reasonable steps

25 to ensure that their registration is not

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1 being utilized as a source of diversion."

2 Did I read that correctly?

3 A. You did.

4 Q. Then he says -- he talked

5 specifically about distributors.

6 "Distributors are, of course, one of the key

7 components of the distribution chain. If the

8 closed system is to function properly as

9 Congress envisioned, distributors must be

10 vigilant" --

11 Do you see that word?

12 A. I do.

13 Q. -- "in deciding whether a

14 prospective customer can be trusted to

15 deliver controlled substances only for lawful

16 purposes. This responsibility is critical,

17 as Congress has expressly declared that the

18 illegal distribution of controlled substances

19 has a substantial and detrimental effect on

20 the health and general welfare of the

21 American people."

22 Do you see that?

23 A. I do.

24 Q. And you agree with all of that,

25 true?

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1 MS. HENN: Objection to form.

2 THE WITNESS: I do.

3 QUESTIONS BY MR. RAFFERTY:

4 Q. Okay. So distributors must be

5 vigilant. By that, you would agree with me

6 that distributors must be not only vigilant

7 but proactive in trying to prevent the

8 diversion of narcotics in the United States,

9 true?

10 A. I would use the phrase --

11 "proactive" is part of it, too, sure.

12 Q. Proactive.

13 A. Sure.

14 Q. It's not a passive

15 responsibility where you just kind of wait

16 and see if somebody calls you up and says,

17 "Hey, listen, I think I'm going to order way

18 too many prescription drugs and divert them."

19 I mean, you got to go out and try to find

20 them, right?

21 MS. HENN: Objection to form.

22 QUESTIONS BY MR. RAFFERTY:

23 Q. You have to be vigilant and

24 proactive?

25 A. It should be part of the -- an

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1 element of the program.

2 Q. Okay. Turning to the second

3 page, sir. Okay. Going on to the page 2.

4 "The statu" -- I'm sorry, the third full

5 paragraph.

6 "The statutory factors." Do

7 you see that sentence?

8 A. I do.

9 Q. Okay. Would you read that,

10 please?

11 A. "The statutory factors DEA must

12 consider in deciding whether to revoke a

13 distributor's registration are set forth in

14 21 USC 823(e)."

15 Want to keep going?

16 Q. Yeah, just the next sentence.

17 A. Okay. "Listed first among

18 these factors is the duty of distributors to

19 maintain effective controls against

20 diversion -- against diversion of controlled

21 substances into other than legitimate

22 medical, scientific and industrial channels."

23 Q. Okay. So maintain effective

24 controls, correct?

25 A. Correct.

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1 Q. The DEA -- the next paragraph  
2 says -- lays out that CFR we read about  
3 designing and operating a system to disclose  
4 suspicious orders.  
5 You see that?  
6 A. I do.  
7 Q. Okay. And then going down to  
8 the next one it says, "It bears emphasis that  
9 the foregoing reporting requirement is in  
10 addition to and not in lieu of the general  
11 requirement under 21 USC 823(e) that a  
12 distributor maintain effective controls  
13 against diversion."  
14 Do you see that?  
15 A. I do.  
16 Q. So it's not just what's listed  
17 up there right above it, right?  
18 A. Right.  
19 Q. Okay. "Thus, in addition to  
20 reporting all suspicious orders, a  
21 distributor has a statutory responsibility to  
22 exercise due diligence to avoid filling  
23 suspicious orders that might be diverted into  
24 other than legitimate medical, scientific and  
25 industrial channels."

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1 Did I read that correctly?  
2 A. You did.  
3 Q. Okay. So you have to use and  
4 exercise due diligence, right? You would  
5 agree with that?  
6 A. Correct, that's what it says in  
7 here, yeah.  
8 Q. Well, and you would agree with  
9 it?  
10 A. Agree with it.  
11 Q. Okay. "Due diligence to avoid  
12 filling suspicious orders," correct?  
13 Okay. "In a similar vein,  
14 given the requirements under 823(e) that a  
15 distributor maintain effective controls  
16 against diversion, a distributor may not  
17 simply rely on the fact that the person  
18 placing the suspicious order is a DEA  
19 registrant and turn a blind eye to the  
20 suspicious circumstances."  
21 You see that?  
22 A. I do.  
23 Q. And you agree with that, right?  
24 MS. HENN: Objection to form.  
25 THE WITNESS: I agree with

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1 that.  
2 QUESTIONS BY MR. RAFFERTY:  
3 Q. Just --  
4 A. Just because you're registered.  
5 Q. What that means is just because  
6 a pharmacy, for example, that you're  
7 supplying the narcotics to happens to also be  
8 a DEA registrant doesn't mean that you can  
9 just say, "Well, they're a DEA registrant,  
10 they've got their obligations, we'll just  
11 ship it."  
12 A. Understood.  
13 Q. You agree?  
14 A. I do.  
15 Q. Okay. "Again, to maintain  
16 effective controls against diversion as  
17 Section 823(e) requires, the distributor  
18 should exercise due care in confirming the  
19 legitimacy of all orders prior to filling."  
20 You see that?  
21 A. I do.  
22 Q. Okay. And you see going to  
23 page 4, that's signed by Joseph T.  
24 Rannazzisi, Deputy Assistant Administrator,  
25 Office of Diversion Control.

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1 You see that?  
2 A. I see that.  
3 Q. Okay. Now, that was in  
4 September of 2006.  
5 Now, in December of 2007,  
6 Mr. Rannazzisi sent another letter. You're  
7 aware of that, correct?  
8 A. Correct.  
9 (McKesson-Hartle Exhibit 50  
10 marked for identification.)  
11 QUESTIONS BY MR. RAFFERTY:  
12 Q. Okay. And this will be marked  
13 as Exhibit 50 to the deposition.  
14 So here, December 27, 2007.  
15 Just so happens to be the monitor that I  
16 can't see that is there.  
17 You see the date there,  
18 December 27, 2007, sir?  
19 A. I do.  
20 Q. Okay. Once again, this one  
21 is -- now, this one is specifically addressed  
22 to McKesson Corporation.  
23 Do you see that?  
24 A. I see that.  
25 Q. Okay. But even though the

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1 other one didn't have an address on it, you  
 2 acknowledge that McKesson received that  
 3 letter?  
 4 A. Yes.  
 5 Q. All right. Once again he says,  
 6 "This letter is being sent to every entity in  
 7 the United States registered with the DEA to  
 8 manufacture or distribute controlled  
 9 substances."  
 10 Do you see that?  
 11 A. I do.  
 12 Q. Okay. Once again he says, "The  
 13 purpose of this letter is to reiterate the  
 14 responsibilities of controlled substance  
 15 manufacturers and distributors to inform DEA  
 16 of suspicious orders in accordance with 21  
 17 CFR 1301.74 subsection B.  
 18 Do you see that?  
 19 A. Right. I do.  
 20 Q. Once again he uses that word  
 21 "reiterate," right?  
 22 A. Yes.  
 23 Q. Okay. Down to the next  
 24 paragraph it says, "In addition to and not in  
 25 lieu of the general requirement under 21 USC

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1 823 that manufacturers and distributors  
 2 maintain effective controls against  
 3 diversion, DEA require -- regulations require  
 4 all manufacturers and distributors to report  
 5 suspicious orders of controlled substances."  
 6 You agree that you must report  
 7 to the DEA all suspicious orders, right?  
 8 MS. HENN: Objection to form.  
 9 THE WITNESS: That's what's in  
 10 the language, yes, reporting  
 11 suspicious orders, yes.  
 12 QUESTIONS BY MR. RAFFERTY:  
 13 Q. And you agree that that's a  
 14 responsibility that you have as a  
 15 distributor?  
 16 A. To report suspicious orders,  
 17 yes.  
 18 Q. Okay. Then going down, the  
 19 regulation -- the regulation clearly  
 20 indicates that "it is the sole responsibility  
 21 of the registrant to design and operate such  
 22 a system."  
 23 Did I read that right?  
 24 A. Yes.  
 25 Q. "Accordingly, DEA does not

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1 approve or otherwise endorse any specific  
 2 system for reporting suspicious orders."  
 3 Correct?  
 4 A. Correct.  
 5 Q. Okay. And then going further  
 6 down it says, "The regulation also" -- this  
 7 is the third full paragraph, sir, I'm sorry.  
 8 "The regulation also requires  
 9 that the registrant inform the local DEA  
 10 division office of suspicious orders when  
 11 discovered by the registrant."  
 12 Do you see that?  
 13 A. I see that.  
 14 Q. And you acknowledge that that  
 15 is a responsibility of the distributor of  
 16 narcotics in the United States, is to report  
 17 it when it's discovered, right?  
 18 A. That's in this guidance.  
 19 That's what he's saying, yeah. It's not the  
 20 language in the -- in the specific  
 21 regulation.  
 22 Q. You understand that is a  
 23 responsibility of distributors?  
 24 A. To report suspicious orders,  
 25 yes.

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1 Q. When discovered?  
 2 A. I understand that.  
 3 Q. You agree with that?  
 4 A. I agree with that.  
 5 Q. Okay. "Filing a monthly report  
 6 of completed transactions does not meet the  
 7 regulatory requirement to report suspicious  
 8 orders."  
 9 Do you see that?  
 10 A. I see that.  
 11 Q. "Registrants are reminded that  
 12 their responsibility does not end merely with  
 13 the filing of a suspicious order report.  
 14 Registrants must conduct an independent  
 15 analysis of suspicious orders prior to  
 16 completing a sale to determine whether the  
 17 controlled substances are likely to be  
 18 diverted from legitimate channels."  
 19 Is that correct?  
 20 A. I see that.  
 21 Q. And you agree with that?  
 22 A. Yes.  
 23 Q. And part of that independent  
 24 analysis is what was being discussed in 2006  
 25 as exercising due diligence in that

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1 investigation, correct?  
2 MS. HENN: Objection to form.  
3 THE WITNESS: Due diligence is  
4 the way to investigate or gather  
5 information, yes.  
6 QUESTIONS BY MR. RAFFERTY:  
7 Q. "Reporting an order as  
8 suspicious will not absolve the registrant of  
9 responsibility if the registrant knew or  
10 should have known that the controlled  
11 substances were being diverted."  
12 Do you see that?  
13 A. I see that.  
14 Q. So what he's saying there is  
15 you must not ship suspicious orders.  
16 Reporting isn't enough. If you have a  
17 suspicious order, you must not ship it, true?  
18 MS. HENN: Objection to form.  
19 THE WITNESS: Can you say that  
20 once again?  
21 QUESTIONS BY MR. RAFFERTY:  
22 Q. You must not ship an order if  
23 you determine it to be a suspicious order.  
24 A. Suspicious order. Correct.  
25 Q. And then it goes through and

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1 describes again that suspicious orders are  
2 orders of unusual size, pattern or frequency.  
3 You see that?  
4 A. I see that, yeah.  
5 Q. All right. Then finally  
6 turning to page 2, "Registrants" -- the top  
7 paragraph.  
8 "Registrants that rely on rigid  
9 formulas to define whether an order is  
10 suspicious may be failing to detect  
11 suspicious orders."  
12 You see that?  
13 A. I see that.  
14 Q. "For example, a system that  
15 identifies orders as suspicious only if the  
16 total amount of a controlled substance  
17 ordered during one month exceeds the amount  
18 ordered the previous month by a certain  
19 percentage or more is insufficient."  
20 You see that?  
21 A. I see that.  
22 Q. "This system fails to identify  
23 orders placed by a pharmacy if the pharmacy  
24 placed unusually large orders from the  
25 beginning of its relationship with the

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1 distributors."  
2 So if you have -- you have to  
3 have more than just an algorithm or a formula  
4 to detect suspicious orders; that's what he's  
5 telling you there, right?  
6 MS. HENN: Objection to form.  
7 THE WITNESS: Can you ask your  
8 question again, clarify your question?  
9 QUESTIONS BY MR. RAFFERTY:  
10 Q. Yeah.  
11 You can't simply rely upon an  
12 algorithm or a formula to determine whether  
13 an order is a suspicious order; you have to  
14 have and do more than that. That's what he's  
15 telling you. That's what the regulations  
16 call for?  
17 MS. HENN: Objection to form.  
18 THE WITNESS: Yeah, there's  
19 other factors that are involved at  
20 times that are taken into  
21 consideration.  
22 QUESTIONS BY MR. RAFFERTY:  
23 Q. So you agree with that?  
24 MS. HENN: Objection to form.  
25 THE WITNESS: That there's --

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1 it's not solely a rigid formula alone,  
2 agreed.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. All right. "Also, this system  
5 would not identify orders as suspicious if  
6 the order were solely for one highly abused  
7 controlled substance if the orders never grew  
8 substantially."  
9 Do you see that?  
10 A. I see that.  
11 Q. "Nevertheless, ordering one  
12 highly abused controlled substance, and  
13 little or nothing else, deviates from normal  
14 pattern of what pharmacies generally order."  
15 You agree with that?  
16 MS. HENN: Objection to form.  
17 THE WITNESS: If you have the  
18 full context of what the pharmacy is,  
19 I agree with that.  
20 QUESTIONS BY MR. RAFFERTY:  
21 Q. Okay. All right. In  
22 implementing a -- in designing and operating  
23 an effective system to detect suspicious  
24 orders or in performing the due diligence to  
25 detect a suspicious order, you would agree



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1 with me that a distributor of narcotics  
2 should err on the side of the public safety  
3 and health in making those decisions,  
4 correct?  
5 MS. HENN: Objection to form.  
6 THE WITNESS: Can you -- can  
7 you restate that or --  
8 QUESTIONS BY MR. RAFFERTY:  
9 Q. Yeah.  
10 In making the decision under,  
11 for example, the CSMP in place -- or that  
12 began in place in 2008, you would agree with  
13 me that a distributor of narcotics such as  
14 McKesson should err in making those decisions  
15 on the side of the public health and safety  
16 in America?  
17 MS. HENN: Objection to form.  
18 THE WITNESS: There's a lot of  
19 components that go into a decision  
20 like that, and that could be one of  
21 them that has -- carries importance,  
22 sure. You want to do what's right.  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. Well, but if you're trying to  
25 make a judgment call and it could go either

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1 way, you want to err on the side of public  
2 health and safety, right?  
3 MS. HENN: Objection to form.  
4 THE WITNESS: Naturally you  
5 would as a person in the --  
6 absolutely. But there's many things  
7 that go into designing a system,  
8 right.  
9 QUESTIONS BY MR. RAFFERTY:  
10 Q. Well, I'm not talking about the  
11 design of the system. I'm saying, for  
12 example, in your -- in your CSMP when you go  
13 down a level 1, 2 or 3 investigation and  
14 you're making a decision, because after each  
15 level, you would agree with me, a decision  
16 has to be made as to whether or not the order  
17 is -- could be a suspicious order and whether  
18 to take it to the next level of  
19 investigation, right?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: Correct, that's  
22 how a tiered process works.  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. And that's how the McKesson  
25 tiered process works, right?

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1 MS. HENN: Objection to form.  
2 THE WITNESS: That's how it's  
3 defined in the program, yes.  
4 QUESTIONS BY MR. RAFFERTY:  
5 Q. That's right.  
6 And so in making the decision,  
7 for example, whether to take an order as --  
8 determine whether an order should go from  
9 level 1 to level 2, McKesson and you, as one  
10 of the senior directors of regulatory  
11 affairs, should err -- if you're going to  
12 make an error, you should err on the side of  
13 public health and safety?  
14 MS. HENN: Objection to form.  
15 THE WITNESS: I agree. I don't  
16 believe that's not top of mind when  
17 you're making those decisions, but in  
18 theory, yes, you want to do what's --  
19 what's ultimately -- you want to do  
20 what's right.  
21 QUESTIONS BY MR. RAFFERTY:  
22 Q. Okay. The public health and  
23 safety is not at top of mind of McKesson when  
24 making those decisions?  
25 MS. HENN: Objection to form.

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1 THE WITNESS: I'm saying in  
2 those certain circumstances it's  
3 not -- that's not something that  
4 somebody processes and goes through  
5 and says, okay, what's -- I think they  
6 naturally have the public safety in  
7 mind. So I would say they do -- it's  
8 the ultimate goal of the program in  
9 general.  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. Well, if you decide that an  
12 order should not be -- that should be  
13 shipped -- or I'm sorry, excuse me.  
14 If you decide an order is  
15 suspicious and should not be shipped, then  
16 McKesson loses that business, right? They  
17 lose that sale. If you don't ship it, you  
18 can't get paid for it, right?  
19 A. That's accurate.  
20 Q. Okay. And in fact, as you're  
21 going through and making those decisions,  
22 people who are involved in sales, for  
23 example, play a part in those decisions in  
24 the CSMP, don't they?  
25 A. They play a part in gathering

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1 information and collecting information.  
2 Regulatory has the decision-making ability.  
3 Q. I understand.  
4 But it starts with, for  
5 example, the distribution center managers and  
6 salespeople, right?  
7 MS. HENN: Objection to form.  
8 THE WITNESS: Because that's an  
9 intake point, yeah.  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. Okay. I want to talk  
12 specifically about the CSMP at McKesson, and  
13 in particular thresholds. Okay?  
14 A. (Witness nods head.)  
15 Q. You're familiar with the  
16 concept of the thresholds under the  
17 controlled safety monitoring program --  
18 controlled substance monitoring program,  
19 correct?  
20 A. I am.  
21 Q. Okay. In fact, it's somewhat  
22 the foundation. The thresholds are kind of  
23 the foundation of the CSMP, true?  
24 A. They're certainly a core part  
25 of the program, foundation of the suspicious

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1 order portion of that, yeah.  
2 Q. Right.  
3 The suspicious order monitoring  
4 is performed through thresholds and the  
5 setting of thresholds?  
6 MS. HENN: Objection to form.  
7 THE WITNESS: Correct.  
8 QUESTIONS BY MR. RAFFERTY:  
9 Q. Okay. And in fact, in terms of  
10 the thresholds, there's two important aspects  
11 of thresholds as it pertains to the diversion  
12 of narcotics in the United States, and that  
13 is, the initial setting of the thresholds and  
14 then whether or not there should be a  
15 threshold change request granted to increase  
16 that threshold, correct?  
17 A. Correct.  
18 Q. Both of those areas are subject  
19 to manipulation; you would agree with that?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: Manipulation in  
22 terms of -- maybe could you better  
23 define what you're --  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. Yeah. You determine, for

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1 example -- McKesson. I keep saying "you."  
2 McKesson determines, for example, when a  
3 customer comes on board, at what level to set  
4 the threshold, right?  
5 A. Correct.  
6 Q. If you set the threshold too  
7 high, then there's no chance that that  
8 customer, no matter what they're ordering,  
9 whether they're -- if they're ordering a --  
10 or they're -- it's a suspicious order, ever  
11 bumps up against a threshold which never  
12 triggers the tiered investigation under the  
13 CSMP, true?  
14 MS. HENN: Objection to form.  
15 THE WITNESS: Could you restate  
16 that one for me?  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. Yeah.  
19 When a customer comes on board,  
20 McKesson sets the threshold level for  
21 narcotics, correct?  
22 A. Correct.  
23 Q. And they do it in a per-dose,  
24 per-month basis, right?  
25 A. Monthly doses, correct.

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1 Q. Okay. And the way it works  
2 under your CSMP is the level 1, 2 or 3  
3 investigation as to whether or not an order  
4 is suspicious is triggered when they exceed  
5 or there is a threshold excursion, true?  
6 MS. HENN: Objection to form.  
7 THE WITNESS: True.  
8 QUESTIONS BY MR. RAFFERTY:  
9 Q. So if you set the threshold so  
10 high that no matter how much a pharmacy  
11 orders, even if they ordinarily order 8,000 a  
12 month and then they come in and order 12,000  
13 one month, if you set the threshold at  
14 13,000, then they're never going to bump up  
15 against that. You're never going to do a  
16 level 1, 2 or 3 investigation to determine if  
17 an order is suspicious, right?  
18 MS. HENN: Objection to form.  
19 THE WITNESS: I wouldn't say  
20 never. I'd say they may; in  
21 situations they may not. There's  
22 other ways in which we look at  
23 customers that may not be hitting --  
24 hitting the thresholds.  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. The system is designed around  
3 the thresholds, correct?  
4 A. That --  
5 MS. HENN: Objection to form.  
6 Go ahead.  
7 THE WITNESS: That piece of the  
8 system -- the system's -- order piece  
9 of the system is designed around that.  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. Right.  
12 A. I'm just saying that there's  
13 other components to the program whereas if a  
14 customer did not hit a threshold, that does  
15 not mean we're not using other data points to  
16 look at them and review and maintain  
17 effective controls against diversion.  
18 Q. How many times have you  
19 initiated a level 1 investigation when a  
20 customer had not reached their threshold?  
21 MS. HENN: Objection to form.  
22 QUESTIONS BY MR. RAFFERTY:  
23 Q. And I'd like examples.  
24 MS. HENN: Objection to form.  
25 THE WITNESS: I wasn't around

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1 during the level 1, really the  
2 tiered -- the core of the tiered  
3 approach, so --  
4 QUESTIONS BY MR. RAFFERTY:  
5 Q. So you can't give me any?  
6 A. I don't have any specific  
7 examples.  
8 Q. Okay. So what you were saying  
9 there was hypothetical, agreed?  
10 MS. HENN: Objection to form.  
11 THE WITNESS: Hypothetical. I  
12 mean -- yeah, there's different ways  
13 to review customers, too, that are  
14 used as part of our program, is what  
15 I'm saying.  
16 QUESTIONS BY MR. RAFFERTY:  
17 Q. Right.  
18 But you also agree that your --  
19 your suspicious order monitoring regulatory  
20 responsibility is done through the setting of  
21 thresholds and whether or not customers  
22 exceed those thresholds?  
23 MS. HENN: Objection to form.  
24 THE WITNESS: Yes.  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. Okay. Now, the other issue is  
3 once you set a threshold, when a customer  
4 orders in excess of that threshold, you have  
5 a system in place, McKesson has a system in  
6 place, where you can change that threshold to  
7 accommodate the excessive order, correct?  
8 MS. HENN: Objection to form.  
9 THE WITNESS: Can you restate  
10 that again? I want to make sure --  
11 we -- we can -- we have a system to  
12 adjust thresholds.  
13 QUESTIONS BY MR. RAFFERTY:  
14 Q. Yes.  
15 So if a customer has a  
16 threshold at 8,000 per month -- narcotics per  
17 month, and they order and it goes -- and that  
18 puts them at 9,000 doses per month, they can  
19 initiate or you can initiate a threshold  
20 change request and increase that either  
21 temporarily or permanently, correct?  
22 MS. HENN: Objection to form.  
23 THE WITNESS: In that scenario,  
24 if a customer orders -- their  
25 threshold's 8,000, they order 9,000,

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1 they're not getting 9,000, just to be  
2 clear.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. Well, they're not getting 9,000  
5 right now.  
6 MS. HENN: Were you done with  
7 your answer?  
8 THE WITNESS: Not yet.  
9 So they're not getting the  
10 9,000. So it's true, a customer can  
11 initiate. And once they've been  
12 blocked, if they feel like they need  
13 more, that they can request that.  
14 There is a process.  
15 QUESTIONS BY MR. RAFFERTY:  
16 Q. Right.  
17 Or, quite frankly, the  
18 salesperson or the distribution center can  
19 initiate it, correct? Can initiate a TCR, a  
20 threshold change request?  
21 MS. HENN: Objection to form.  
22 THE WITNESS: Can have -- have  
23 conversations with the pharmacy about  
24 whether they need more or not or if  
25 they need to submit one.

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. Right.  
3 So getting back, so what can  
4 happen is -- first of all, we talked about  
5 the setting of the thresholds, number one,  
6 but number two, even after they're set, they  
7 can be increased on a temporary or permanent  
8 basis based on the order of the customer,  
9 true?  
10 MS. HENN: Objection to form.  
11 THE WITNESS: Based on the  
12 request and the facts and  
13 circumstances around that, yes --  
14 QUESTIONS BY MR. RAFFERTY:  
15 Q. Okay.  
16 A. -- thresholds can be increased  
17 for many different reasons.  
18 Q. All right. So we're going to  
19 talk a little bit about how you go through  
20 that.  
21 So if we could, let's look at  
22 1.345.  
23 How long has the -- that CSMP  
24 was in place from 2008 until when?  
25 MS. HENN: Objection to form.

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. The one that was implemented in  
3 2008 was in effect until when?  
4 A. 2014 when we released the --  
5 the ISMC manual. I believe that's the...  
6 (McKesson-Hartle Exhibit 51  
7 marked for identification.)  
8 MR. RAFFERTY: This is -- I'm  
9 handing counsel P1.345, which is  
10 Exhibit 51 to the deposition.  
11 QUESTIONS BY MR. RAFFERTY:  
12 Q. I'm showing you what is the  
13 March 21, 2013 CSMP.  
14 You see that?  
15 A. I do.  
16 Q. This is the CSMP that was put  
17 in place after the 2008 settlement and fine  
18 of 13.25 million, correct?  
19 MS. HENN: Objection to form.  
20 THE WITNESS: That's when it  
21 was put into place after that,  
22 correct.  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. Okay. And if we could, let's  
25 look at the first page, McKesson's operating

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1 manual -- operations manual for pharma  
2 distribution, controlled substance monitoring  
3 program.  
4 You see that?  
5 A. Yep.  
6 Q. All right. And if you go down,  
7 it says, "The purpose of this process is to  
8 proactively review the customer orders and  
9 purchases for all controlled substances."  
10 Do you see that?  
11 A. I see that.  
12 Q. "In order to detect and prevent  
13 diversion."  
14 That's the purpose of this,  
15 right, to detect and prevent diversion?  
16 A. Correct.  
17 Q. "Set and maintain customer  
18 thresholds for all controlled substances."  
19 Do you see that?  
20 A. I see that.  
21 Q. Then it goes down and it says,  
22 "Also, the DEA expects McKesson to, quote,  
23 know their customer, unquote."  
24 Do you see that?  
25 A. I see that.

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1 Q. Okay. And you agree with that,  
2 that DEA expects McKesson to know their  
3 customer who they're selling the narcotics  
4 to, right?  
5 A. I agree.  
6 Q. If you would, let's go to  
7 page 8, .8.  
8 All right. So actually go to  
9 .7 first, I'm sorry, the bottom part of .7,  
10 "threshold review."  
11 Do you see that?  
12 A. I do.  
13 Q. And then it says, "Regulatory  
14 department will review/assess customer  
15 thresholds during the month. Additionally,  
16 customers that approach a predetermined  
17 percentage of threshold maximum or exceed  
18 maximums will receive messaging as shown  
19 below."  
20 And then turn the page.  
21 "Threshold warning: Invoice and delivery doc  
22 only."  
23 So that means on their invoice,  
24 they receive an invoice that says  
25 "approaching monthly regulatory purchase



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1 limit," right?  
2 A. Correct.  
3 Q. So you notify -- so as a  
4 customer gets -- now, the customer doesn't  
5 know what their -- or not supposed to know  
6 what their threshold is, right?  
7 MS. HENN: Objection to form.  
8 THE WITNESS: We don't share it  
9 with them.  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. You don't share it with them.  
12 There's a reason why you don't  
13 share it with them, right?  
14 A. Sure.  
15 Q. And that is so that they can't  
16 try to manipulate a way around it, right, and  
17 get drugs from other suppliers or other  
18 distributors or something like that, right --  
19 MS. HENN: Objection to form.  
20 QUESTIONS BY MR. RAFFERTY:  
21 Q. -- as they approach it, so as  
22 not to be detected?  
23 MS. HENN: Objection to form.  
24 THE WITNESS: It's one of the  
25 reasons, sure.

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. Okay. Yet, when you start to  
3 reach a percentage -- and what percentage is  
4 that, Mr. Hartle?  
5 MS. HENN: Objection to form.  
6 QUESTIONS BY MR. RAFFERTY:  
7 Q. When do they get the  
8 notification that they're bumping up against  
9 their threshold?  
10 A. I believe it -- that can be a  
11 different number at a time and you can adjust  
12 that, but I think the standard was  
13 90 percent.  
14 Q. Okay.  
15 A. I believe.  
16 Q. So as it gets close to the  
17 threshold, you actually notify the customer  
18 and say, "Hey, you're bumping up against your  
19 threshold," right?  
20 MS. HENN: Objection to form.  
21 QUESTIONS BY MR. RAFFERTY:  
22 Q. So at that point -- well,  
23 correct?  
24 A. Correct, that's on the invoice.  
25 That was on invoice.

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1 Q. All right. So at that point a  
2 pharmacy, for example, could certainly  
3 estimate what their threshold level is,  
4 right? They know -- they could go back and  
5 see how much they've purchased and determine  
6 how much -- what their threshold is, right?  
7 MS. HENN: Objection to form.  
8 THE WITNESS: Theoretically.  
9 QUESTIONS BY MR. RAFFERTY:  
10 Q. Okay.  
11 A. They can convert things to  
12 doses, convert things to base codes. It's  
13 not just a report they run.  
14 Q. All right. "Threshold warning,  
15 Section 2.1. When a customer that has  
16 reached the threshold warning has been  
17 detected, the director of regulatory affairs  
18 will notify DC management and sales."  
19 Do you see that?  
20 A. I see that.  
21 Q. Now, you would agree with me  
22 that sales shouldn't be playing any part in  
23 regulatory decisions, right?  
24 MS. HENN: Objection to form.  
25 THE WITNESS: They don't play

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1 any part of regulatory decisions. We  
2 make the decisions.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. Okay. I didn't ask you that.  
5 You would agree with me that  
6 they shouldn't be involved in making  
7 regulatory decisions, right?  
8 MS. HENN: Objection to form.  
9 THE WITNESS: The decision, no.  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. Okay.  
12 A. Gathering information for the  
13 context of the request, yes.  
14 Q. So what happens here, according  
15 to this, is then it says, "Sales and/or DC  
16 management may contact the customer to  
17 discuss threshold levels at their  
18 discretion," right?  
19 A. Right. That's what it says.  
20 Q. Are you aware of how DC  
21 managers and salespeople are paid?  
22 MS. HENN: Objection to form.  
23 THE WITNESS: In general, yes.  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. They have an incentive.



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1 They're paid on keeping customers and making  
2 sales, correct?  
3 MS. HENN: Objection to form.  
4 QUESTIONS BY MR. RAFFERTY:  
5 Q. That is a part of their  
6 compensation?  
7 A. That's how sales works.  
8 Q. So what you're doing here,  
9 according to this, is giving them discretion,  
10 once there's a threshold -- once somebody is  
11 bumping up against the threshold, to reach  
12 out to the customer and talk with them about  
13 whether or not they should initiate a  
14 threshold change request, right?  
15 MS. HENN: Objection to form.  
16 THE WITNESS: Yes.  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. Okay. The very people that  
19 stand to profit from it are the ones talking  
20 with the customer to see whether or not they  
21 should make a threshold change request and  
22 get that order shipped, right?  
23 MS. HENN: Objection to form.  
24 THE WITNESS: Those in sales  
25 that are incentivized based on sales

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1 are the ones that are part of the  
2 intake. I do know we have restricted  
3 and blocked incentives around  
4 controlled substances.  
5 QUESTIONS BY MR. RAFFERTY:  
6 Q. Right. But you're --  
7 A. Being part of the solution --  
8 or being part of the compensation.  
9 Q. Right.  
10 So you're putting the people  
11 who stand to profit personally from the sale,  
12 giving them the discretion to reach out, have  
13 discussions with the customer as to whether  
14 or not to initiate a threshold change  
15 request. That's what this says, right?  
16 MS. HENN: Objection to form.  
17 THE WITNESS: Our sales folks  
18 are involved in the process.  
19 QUESTIONS BY MR. RAFFERTY:  
20 Q. Okay. It says then, "If a  
21 threshold change is requested, follow the  
22 change request process in step 1.3."  
23 Do you see that?  
24 A. I see that.  
25 Q. Okay. Now it says, "2.2,

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1 threshold excursion." That means that the  
2 order has exceeded the threshold, right?  
3 A. Correct.  
4 Q. "Once a customer has reached  
5 their monthly maximum threshold amount, all  
6 subsequent orders for that item will be  
7 blocked. This triggers the level review  
8 process as detailed in level review steps  
9 below."  
10 You see that?  
11 A. I see that.  
12 Q. So the -- so what we were  
13 talking about earlier, the exceeding of the  
14 threshold, is what triggers the level review  
15 steps, right?  
16 A. Correct.  
17 Q. Okay. And then it says it can  
18 be unblocked if it is temporarily changed,  
19 permanently changed or if they fall below the  
20 threshold by returning product or basically a  
21 new month starts, because it's refreshed at  
22 the beginning of every month, right?  
23 MS. HENN: Objection to form.  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. The threshold is.

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1 A. Correct.  
2 MS. HENN: Objection to form.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. Now, in the review process, in  
5 the level 1, 2, and 3 review process, retail  
6 national accounts are treated differently  
7 than smaller accounts; isn't that right?  
8 MS. HENN: Objection to form.  
9 THE WITNESS: In some ways.  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. Well, and in one way that  
12 they're treated differently is when, for  
13 example, a Rite Aid on the corner of, you  
14 know, Main Street exceeds a threshold, you  
15 don't call that particular store; you call  
16 headquarters, right?  
17 A. Correct. The relationship is  
18 regulatory teams to headquarters team.  
19 Headquarters teams to headquarters teams.  
20 Q. Right.  
21 And then you gather whatever  
22 information -- you don't talk to that  
23 particular pharmacy, they do. And they make  
24 the determination as to whether or not that  
25 threshold should be changed, right?

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1 MS. HENN: Objection to form.  
 2 THE WITNESS: They make the  
 3 determination as to whether they want  
 4 to request an increase. We make the  
 5 determination as to whether it should  
 6 be changed.  
 7 QUESTIONS BY MR. RAFFERTY:  
 8 Q. Okay. But you're dealing  
 9 specifically with the headquarters, not with  
 10 the -- and you're gathering all information  
 11 from headquarters, right?  
 12 MS. HENN: Objection to form.  
 13 THE WITNESS: Correct.  
 14 QUESTIONS BY MR. RAFFERTY:  
 15 Q. And in fact, when you do  
 16 contact them and when you do start performing  
 17 a threshold change request for the big  
 18 accounts, you use an abbreviated form and an  
 19 abbreviated process, right?  
 20 MS. HENN: Objection to form.  
 21 THE WITNESS: Yes, in some  
 22 ways. And some of those processes are  
 23 based on the fact that the company --  
 24 so, for example, you know, teams,  
 25 large chains, have processes to do

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1 checks on their employees and  
 2 background checks and things like  
 3 that. So that may not be a process  
 4 that we do in -- on our team, but  
 5 that's one that the chain team does as  
 6 part of their normal business.  
 7 QUESTIONS BY MR. RAFFERTY:  
 8 Q. So you give them more deference  
 9 in the process?  
 10 MS. HENN: Objection to form.  
 11 THE WITNESS: We recognize that  
 12 there's certain components that they  
 13 have in place already that we don't.  
 14 QUESTIONS BY MR. RAFFERTY:  
 15 Q. Go ahead.  
 16 A. That -- that they have -- you  
 17 know, are better positioned to do in terms of  
 18 knowing their teams, in the process do  
 19 background checks or searches or things like  
 20 that.  
 21 Q. So you give them more deference  
 22 in the process?  
 23 MS. HENN: Objection to form.  
 24 THE WITNESS: How do you define  
 25 deference?

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1 QUESTIONS BY MR. RAFFERTY:  
 2 Q. Well, you're relying on their  
 3 processes. You just said because they have  
 4 their own processes in place, their own  
 5 policies, that they're treated differently.  
 6 The way they're treated  
 7 differently is you give them more deference  
 8 in the process than you do Dale's Pharmacy,  
 9 right?  
 10 MS. HENN: Objection to form.  
 11 THE WITNESS: In certain parts  
 12 of the intake in the process, not the  
 13 decision. We make the decisions.  
 14 QUESTIONS BY MR. RAFFERTY:  
 15 Q. And those decisions that you  
 16 make, for example, on TCRs, those should be  
 17 based on direct evidence, right?  
 18 MS. HENN: Objection to form.  
 19 THE WITNESS: All of the facts  
 20 and circumstances surrounding the  
 21 request.  
 22 QUESTIONS BY MR. RAFFERTY:  
 23 Q. Listen to my question, please,  
 24 sir.  
 25 The decision on a TCR must be

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1 based on direct evidence, correct?  
 2 MS. HENN: Objection to form.  
 3 THE WITNESS: Based on direct  
 4 evidence we receive and review and  
 5 research.  
 6 QUESTIONS BY MR. RAFFERTY:  
 7 Q. Okay. But you agree that  
 8 that's what the decision should be based on,  
 9 is direct evidence?  
 10 MS. HENN: Objection to form.  
 11 THE WITNESS: And -- and the  
 12 interpretation and collection of  
 13 information and context, yes.  
 14 QUESTIONS BY MR. RAFFERTY:  
 15 Q. That direct evidence should be  
 16 valid business decisions, right? That's part  
 17 of it?  
 18 MS. HENN: Objection to form.  
 19 THE WITNESS: It's one of the  
 20 pieces of information, yeah.  
 21 QUESTIONS BY MR. RAFFERTY:  
 22 Q. I think you've already got this  
 23 in front of you. It's Exhibit 47. It's your  
 24 presentation notes.  
 25 And we also know that doctor --

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1 or that Mr. Rannazzisi specifically said in  
2 his 2007 letter you can't simply rely or turn  
3 a blind eye simply because the Rite Aid  
4 you're providing drugs to or the CVS you're  
5 providing drugs to has their own  
6 registrant -- are registrants of the DEA,  
7 right?  
8 MS. HENN: Sorry, could you  
9 just read that again? It was a little  
10 hard to hear.  
11 QUESTIONS BY MR. RAFFERTY:  
12 Q. Yeah.  
13 You would agree -- excuse me.  
14 You would agree with me that Mr. Rannazzisi,  
15 as early as 2007, reiterated the fact that  
16 you can't turn a blind eye just because the  
17 CVS that you're supplying is also a DEA  
18 registrant, right?  
19 MS. HENN: Objection to form.  
20 THE WITNESS: Correct.  
21 QUESTIONS BY MR. RAFFERTY:  
22 Q. And if you would, turn to  
23 page 15, P1.15. This is Exhibit 47.  
24 Slide 15 says, "Thresholds."  
25 Do you see that?

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1 A. I do.  
2 Q. "Lastly, appropriate" --  
3 there's a second paragraph there. "Lastly,  
4 appropriate adjustments will be made because  
5 in the natural course of business we know  
6 there will be growth. To make adjustments,  
7 we are really looking for, quote, direct  
8 evidence, end quote."  
9 That's your phrase, right?  
10 That's what you said?  
11 A. That's what I had in my notes.  
12 I don't -- yeah.  
13 Q. Okay. "An understanding of the  
14 business model and demonstration of the  
15 corresponding responsibility."  
16 Do you see that?  
17 A. Yes.  
18 Q. And then it says, "Specifically  
19 related to direct evidence, just the fact  
20 that the oxycodone sales are increasing is  
21 not in and of itself justification to change  
22 a threshold. When we say direct evidence, it  
23 is things like" -- and you list them out --  
24 "the acquisition of a pharmacy and the  
25 details related to projected increases."

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1 So acquisition of a pharmacy,  
2 right? That's one?  
3 A. Right.  
4 Q. Two, a new clinic opening up.  
5 Three, growth in overall  
6 prescription business or something else that  
7 connects the increase to a change in business  
8 model or increased patient activity.  
9 You see that?  
10 A. Yeah, they're examples of  
11 reasons for a request.  
12 Q. Of direct evidence.  
13 And if you don't have that  
14 direct evidence, you shouldn't grant an  
15 increase in the threshold, correct?  
16 MS. HENN: Objection to form.  
17 THE WITNESS: Yeah, it depends  
18 on the facts and circumstances of  
19 everything that's being collected.  
20 And I think I use direct evidence to  
21 mean -- you know, provide information  
22 on the reason for the change, why...  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. I'm listening. I'm just  
25 getting the next document, so go ahead.

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1 A. I'm fine.  
2 Q. There's got to be a reason.  
3 There's got to be a legitimate reason that  
4 you obtain with direct evidence.  
5 A. There's got to be a reason.  
6 Q. Well, not just a reason. It's  
7 got to be a valid reason, such as a valid  
8 business reason like acquiring another  
9 pharmacy, right?  
10 A. That's one of them.  
11 Q. Right.  
12 And in making the determination  
13 as to whether or not to grant or not grant a  
14 threshold change request, you should do that  
15 on an individual basis, and it should be  
16 based the same -- there should be the same  
17 standard for the small pharmacies as the  
18 large pharmacies, right?  
19 MS. HENN: Objection to form.  
20 THE WITNESS: Changes are not  
21 always on the individual. There's  
22 reasons why changes might be done  
23 across multiple locations.  
24 (McKesson-Hartle Exhibit 52  
25 marked for identification.)

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. Okay. All right. Well, let's  
3 talk about a couple of those. Let's look at  
4 1.1470, which is going to be Exhibit 52.  
5 This is a threshold change  
6 form. You're familiar with this, right?  
7 A. I am.  
8 Q. Okay. And have you reviewed  
9 this particular one?  
10 A. Let me take a peek real quick  
11 here.  
12 Q. It was in 2008, so it was  
13 before you --  
14 A. Well before I joined McKesson,  
15 certainly.  
16 Q. Right.  
17 But I'm curious if you've seen  
18 it since coming to --  
19 A. I have.  
20 Q. Okay. And you see here it  
21 says, "Immediate change request, yes." You  
22 see that?  
23 Date, 11/26/08. You see that?  
24 A. I do.  
25 Q. And then it is "increase amount

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1 30 percent."  
2 Do you see that? That's the  
3 request?  
4 A. I see that.  
5 Q. And it says, "Reason for  
6 change, and attach supporting documentation."  
7 And it says, "Per agreement between CVS and  
8 McKesson, approved by Don Walker on  
9 September 25th, to temporarily withhold  
10 threshold monitoring until CVS analyzed  
11 requested data."  
12 Do you see that?  
13 A. I see that.  
14 Q. Are you familiar with this  
15 agreement to withhold monitoring their  
16 thresholds between McKesson and CVS?  
17 A. I am not.  
18 Q. Do you have, since you're in  
19 charge of the national -- the retail national  
20 accounts -- CVS would be one of those, right?  
21 Now you are, I'm talking about.  
22 A. Yes.  
23 Q. Okay. And you have been since  
24 2014?  
25 A. 2014.

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1 Q. I'm not suggesting you were at  
2 this time.  
3 A. Right.  
4 Q. Okay. Do you have an agreement  
5 with CVS or Rite Aid to not monitor their  
6 thresholds?  
7 A. Absolutely not.  
8 Q. Is there a reason -- because  
9 you should be monitoring their thresholds,  
10 right?  
11 A. We do.  
12 Q. And they should be  
13 monitoring -- in 2008, McKesson should have  
14 been monitoring their thresholds, correct?  
15 MS. HENN: Objection to form.  
16 THE WITNESS: Correct.  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. Okay.  
19 A. What I don't under -- what I  
20 don't know is the context of this. I  
21 don't -- there's reasons why a request across  
22 an entire chain might be asked for because of  
23 a change in their business model or sourcing.  
24 I don't believe this to mean that they're not  
25 monitoring or part of the threshold system.

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1 Q. Well, here it says they're  
2 asking for an across-the-board 30 percent  
3 increase, correct?  
4 A. That's what they're asking for.  
5 Q. Okay. And it says, "Per the  
6 agreement between CVS and McKesson, approved  
7 by Don Walker on September 25th, to  
8 temporarily withhold the threshold  
9 monitoring."  
10 Do you see that?  
11 A. I see that.  
12 Q. Okay. So at least here, Don  
13 Walker -- you know, who's Don Walker?  
14 A. Don Walker was the senior vice  
15 president of distribution operations.  
16 Q. Okay. And in fact, threshold  
17 monitoring, as we talked about, is the  
18 foundation of you performing your  
19 responsibility for suspicious order  
20 monitoring, correct, under the CSMP?  
21 A. It's the foundation of the  
22 program --  
23 Q. Okay.  
24 A. -- for that piece.  
25 Q. So if you're not -- if you stop

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1 monitoring, then suspicious orders can go  
2 through without you ever knowing, right?  
3 MS. HENN: Objection to form.  
4 THE WITNESS: Could be. I do  
5 not believe that that's the --  
6 sometimes there's language that's put  
7 in here from -- you know, from a sales  
8 conversa -- or a conversation with  
9 CVS, and maybe they said, can we not  
10 monitor or can we -- you know, it  
11 doesn't necessarily mean that's the  
12 language of Don or whoever that was  
13 there at the time.  
14 QUESTIONS BY MR. RAFFERTY:  
15 Q. Now, you're just making that  
16 up, right?  
17 A. I'm not --  
18 MS. HENN: Objection to form.  
19 QUESTIONS BY MR. RAFFERTY:  
20 Q. You don't know. You just said  
21 you don't know.  
22 A. I don't know. I'm speculating,  
23 certainly.  
24 Q. You're speculating. You're  
25 guessing.

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1 A. I am. I'll be very clear on  
2 that, yeah.  
3 Q. Okay. Which is another way of  
4 saying you're making it up.  
5 MS. HENN: Objection to form.  
6 QUESTIONS BY MR. RAFFERTY:  
7 Q. Right?  
8 A. Speculating. I believe there  
9 are reasons why this may not be exactly how  
10 it's written on there.  
11 Q. Well, what we've been provided  
12 is this, which is a one-page form, and what  
13 it says is, "Per the agreement between" --  
14 CVS is a pretty big customer of  
15 McKesson, right?  
16 A. They're a large customer, sure.  
17 Q. Yeah.  
18 You don't want to lose them,  
19 right? That's a big source of business?  
20 A. They're a large customer, sure.  
21 Q. One of the largest?  
22 A. One of our larger customers,  
23 yes.  
24 Q. Okay. So all we have -- we  
25 don't have anything attached saying that

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1 there was some -- whatever it is you just got  
2 done saying -- reason. What we have is him  
3 saying there's an agreement signed off by Don  
4 Walker to temporarily withhold monitoring,  
5 threshold monitoring, right? That's what we  
6 have?  
7 A. That's what's on the paper.  
8 MS. HENN: Objection to form.  
9 THE WITNESS: That's what's on  
10 the paper.  
11 QUESTIONS BY MR. RAFFERTY:  
12 Q. And that shouldn't be done,  
13 right? You should be monitoring thresholds  
14 at all times?  
15 MS. HENN: Objection to form.  
16 THE WITNESS: That's right.  
17 (McKesson-Hartle Exhibit 53  
18 marked for identification.)  
19 QUESTIONS BY MR. RAFFERTY:  
20 Q. Okay. If we go now to 1.1469,  
21 and this will be Exhibit 53. This is  
22 P1.1469, which is now Exhibit 53. This is  
23 another threshold change request.  
24 Do you see this?  
25 A. I see this.

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1 Q. Okay. Have you reviewed this  
2 before?  
3 A. I have not.  
4 Q. Okay. Let's look at it, and  
5 let's start with -- let's start on the back  
6 page.  
7 Do you see that, the threshold  
8 change form?  
9 A. Yes.  
10 MR. RAFFERTY: Which is .28,  
11 Corey.  
12 QUESTIONS BY MR. RAFFERTY:  
13 Q. I'm sorry, it's .5. It's  
14 1.1469.5.  
15 Do you see that?  
16 A. I do.  
17 Q. Okay. And here we got  
18 11/28/08. So this is, again, right around  
19 that same time period as we just saw the one  
20 earlier, which was dated 11/26/08.  
21 Do you see that?  
22 MS. HENN: 25.  
23 MR. RAFFERTY: I'm sorry, was  
24 it 25?  
25 MS. HENN: Well, I guess I see



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1 two dates. Sorry about that.  
2 MR. RAFFERTY: Okay.  
3 THE WITNESS: Same general  
4 time.  
5 QUESTIONS BY MR. RAFFERTY:  
6 Q. Same general time period,  
7 right?  
8 Okay. Let's see what's  
9 happening with this one. 11/28/08, customer  
10 name, various RNA customers. See attachment.  
11 Do you see that?  
12 A. I see that.  
13 Q. Okay. RNA, that's the retail  
14 national accounts. Those are the big ones,  
15 right?  
16 A. Those are chains.  
17 Q. Chains. The big chains,  
18 national chains, right?  
19 MS. HENN: Objection to form.  
20 THE WITNESS: There's actually  
21 a variety of chains. Some can be  
22 specific to a state, to a geography,  
23 national. There's variety of them.  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. Well, you call them retail

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1 national accounts, right?  
2 A. That's the name of the  
3 segments, but I'm saying within there there's  
4 variations.  
5 Q. Well, there's Rite Aid, right?  
6 A. Sure.  
7 Q. CVS, right?  
8 A. Sure.  
9 Q. Okay. Let's look at this and  
10 see what's being requested.  
11 "CS requested: Various  
12 increase in amount, 30 percent increase."  
13 You see that?  
14 A. I see that.  
15 Q. "Reason for change: Attach  
16 supporting documentation. Increase due to  
17 Thanksgiving holiday. 30 percent increase."  
18 Do you see that?  
19 It's on the threshold change  
20 form. "Increase due to Thanksgiving holiday,  
21 30 percent."  
22 A. I see that.  
23 Q. I didn't see that listed in  
24 that -- those examples of your direct  
25 evidence, Thanksgiving.

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1 Do you believe that  
2 Thanksgiving, just writing down "Thanksgiving  
3 holiday" and therefore increasing across the  
4 board an RNA 30 percent is a valid business  
5 direct evidence reason?  
6 MS. HENN: Objection to form.  
7 THE WITNESS: No.  
8 QUESTIONS BY MR. RAFFERTY:  
9 Q. And in fact, not only was it  
10 increased due to, quote, Thanksgiving  
11 holiday, end quote, but it was also, if you  
12 look down, "McKesson use only, permanent or  
13 temporary threshold change."  
14 Do you see that? Number 3  
15 under "McKesson use only."  
16 A. Oh, I'm sorry. I see that.  
17 Q. What does that say afterwards?  
18 A. It says "perm."  
19 Q. That means?  
20 A. Permanent.  
21 Q. So because of the Thanksgiving  
22 holiday, they're increasing across the board  
23 one of your big customers 30 percent, and  
24 they're doing it permanently. That's what  
25 that means, doesn't it?

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1 MS. HENN: Objection to form.  
2 THE WITNESS: That's what's --  
3 you know, you could assume that's what  
4 it means. I don't have the context of  
5 the whole situation, but --  
6 QUESTIONS BY MR. RAFFERTY:  
7 Q. Well, okay.  
8 A. But that's what's on the paper.  
9 Q. Well, here's what it says on  
10 the threshold change request. It says,  
11 "3" --  
12 MR. RAFFERTY: Let's blow that  
13 up, Corey.  
14 QUESTIONS BY MR. RAFFERTY:  
15 Q. "3, permanent or temporary  
16 change." So you're either going to write --  
17 and then he's got p-e-r-m.  
18 What are the first four letters  
19 of the word permanent?  
20 A. I agree with that. That's  
21 what --  
22 Q. Okay.  
23 A. -- I'm saying. I'm assuming  
24 that's what that -- this means.  
25 Q. Okay. Well, let's go --

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1 because we got some e-mails that were  
2 attached to this. So let's take a look at  
3 those.  
4 Here we got -- if you go to  
5 page .3 -- well, first of all, let's back up.  
6 Let's go to .4. From Dave Gustin.  
7 Do you know who Dave Gustin is?  
8 A. I do know who Dave Gustin is.  
9 Q. Okay. Who he is?  
10 A. Dave is a former McKesson  
11 employee. He was a director of regulatory  
12 affairs at times.  
13 Q. Okay. A director of regulatory  
14 affairs, right?  
15 A. Correct.  
16 Q. Okay. One step below you,  
17 right?  
18 A. Yes. One level, yeah.  
19 Q. One level.  
20 Directors of regulatory affairs  
21 do have decision-making authority, correct?  
22 A. They do.  
23 Q. All right. From Dave Gustin to  
24 Micheal Bishop.  
25 Do you know who Micheal Bishop

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1 is?  
2 A. I do. Micheal used to work on  
3 my team.  
4 Q. Okay. And in fact, I think we  
5 saw him up there earlier this morning.  
6 That's one of the reasons I put that chart up  
7 there, so we could go back and reference who  
8 some people are.  
9 Micheal Bishop was on your  
10 team, and what position was he?  
11 A. He was a regulatory affairs  
12 manager.  
13 Q. Manager. Okay.  
14 And here Dave Gustin is saying  
15 on December 16th -- now, remember, the date  
16 of this was November 28, 2008. That was the  
17 date of the TCR, right, the threshold change  
18 form?  
19 A. Correct.  
20 Q. So here we are -- what is  
21 that -- almost three weeks later where he's  
22 e-mailing Micheal Bishop: "Could you do me a  
23 favor? Are you in today?"  
24 Do you see that?  
25 A. I see that.

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1 Q. And then if we go down to  
2 page .3, from Dave Gustin to Micheal  
3 Bishop -- well, let's start at the bottom.  
4 Micheal Bishop responds that day and says, "I  
5 am. Meeting for next 30."  
6 Do you see that?  
7 A. Yes.  
8 Q. Then Dave Gustin responds and  
9 says, "I just need a TCR from you signed and  
10 dated the 30th. I will use it for the  
11 30 percent increase I made for the RNAs that  
12 day after you e-mailed me all those reports."  
13 Do you see that?  
14 A. I see that.  
15 Q. So what he's asking him to do  
16 is actually fill out forms backdating it to  
17 the 30th, correct?  
18 A. He's asking to put the 30th on  
19 there.  
20 Q. Okay. Well, it's not the 30th  
21 anymore, is it?  
22 A. No, but the 30th represents --  
23 it's supposed to represent the day of the --  
24 could be interpreted as the day of the  
25 initiation or the request or the formal

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1 request.  
2 Q. Well, you should be putting  
3 that down -- you should be filling that  
4 paperwork out when it's being -- when it's  
5 being performed, right, not three weeks  
6 later?  
7 MS. HENN: Objection to form.  
8 THE WITNESS: Not always. I  
9 mean, you're -- you may make the  
10 decisions based on your notes and do  
11 the official documentation later.  
12 QUESTIONS BY MR. RAFFERTY:  
13 Q. So just fill it out when you  
14 get to it. That's the -- that's the McKesson  
15 protocol for allowing across-the-board  
16 increases in thresholds for narcotics in  
17 America: Get to the paperwork when you get  
18 to it?  
19 MS. HENN: Objection to form.  
20 THE WITNESS: Not at all.  
21 Sorry.  
22 QUESTIONS BY MR. RAFFERTY:  
23 Q. So that's just a Dave Gustin  
24 policy; is that what you're saying?  
25 MS. HENN: Objection to form.

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1 THE WITNESS: It's standard to  
2 document things after. You may make  
3 the decision based on the information  
4 you have in your own notes. To put it  
5 into the format may happen after that.  
6 That's not uncommon.  
7 QUESTIONS BY MR. RAFFERTY:  
8 Q. Well, he's asking him to date  
9 it specifically back three weeks earlier,  
10 isn't he?  
11 MS. HENN: Objection to form.  
12 QUESTIONS BY MR. RAFFERTY:  
13 Q. Is that how you do business?  
14 MS. HENN: Objection to form.  
15 THE WITNESS: I do business by  
16 wanting to document the date that it  
17 was initiated, to make sure my  
18 documentation is timely.  
19 QUESTIONS BY MR. RAFFERTY:  
20 Q. Well, if somebody came in and  
21 was looking for it between those dates, they  
22 wouldn't find any documentation of it, would  
23 they?  
24 MS. HENN: Objection to form.  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. That they came in between  
3 November 28th and December 16th or 17th, they  
4 wouldn't find any documentation because none  
5 had been made. And that's why Dave Gustin's  
6 asking them to do it now, right?  
7 MS. HENN: Objection to form.  
8 THE WITNESS: What's your  
9 question specifically?  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. If somebody was looking for the  
12 documentation, for example, a senior director  
13 of regulatory affairs, and wanted to know why  
14 there was this 30 percent across-the-board  
15 increase, let's say on December 1st, they  
16 wouldn't find any paperwork, would they?  
17 MS. HENN: Objection to form.  
18 THE WITNESS: Depends. Depends  
19 on how they are -- where they were  
20 looking. Are you saying they wouldn't  
21 find it because of the date?  
22 QUESTIONS BY MR. RAFFERTY:  
23 Q. There wasn't, because Dave  
24 Gustin isn't even asking for the proper forms  
25 to be filled out until three weeks later,

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1 right?  
2 MS. HENN: Objection to form.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. It's fairly common sense.  
5 A. Yeah, it doesn't mean he  
6 doesn't have documentation. Dave has  
7 documentation somewhere.  
8 Q. Once again, you don't know, do  
9 you?  
10 A. I don't know. I don't know. I  
11 wasn't around at the time. I don't know.  
12 Q. All right. So let's go to the  
13 next one for Micheal Bishop, December 16,  
14 2008. This is the Thanksgiving increases.  
15 Evidently they've got a phrase  
16 for them, "Thanksgiving increases."  
17 Do you see that?  
18 MS. HENN: Objection to form.  
19 THE WITNESS: I see that.  
20 QUESTIONS BY MR. RAFFERTY:  
21 Q. And then he says, "Yep, 11/28,"  
22 right?  
23 A. I see that.  
24 Q. Okay. And then going forward,  
25 let's see what was actually done.

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1 December 17th, Dave Gustin  
2 sends out an e-mail and says, "All, on  
3 November 28th, I was sent a request by  
4 Micheal" --  
5 That's Micheal Bishop, right?  
6 A. Yes.  
7 Q. -- "for over 200 thresholds to  
8 get 30 percent increases for various national  
9 accounts. The attached TCR form covers all  
10 RNA increases made that date. Please sign  
11 and file. This is not routine, but I was the  
12 only DRA on and so my time was spent making  
13 the changes, and I may have missed some  
14 e-mails to the DCs. Include a copy of this  
15 e-mail along with the TCR in the file.  
16 Thanks for your patience and understanding."  
17 So on November 28th, Dave  
18 Gustin increased 200 national accounts by  
19 30 percent with the sole reason being given  
20 of Thanksgiving, right?  
21 MS. HENN: Objection to form.  
22 THE WITNESS: That's what's on  
23 the form. Again, I don't know and I  
24 don't have the context of --  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. Well, that's where the reason's  
3 supposed to be, isn't it, on the form?  
4 It says, "Reason for change."  
5 That's where it should be, right?  
6 MS. HENN: Objection to form.  
7 THE WITNESS: Yes, or with  
8 attached supporting documentation.  
9 QUESTIONS BY MR. RAFFERTY:  
10 Q. Is there any attached  
11 supporting documentation?  
12 MS. HENN: Objection to form.  
13 THE WITNESS: I don't see any.  
14 QUESTIONS BY MR. RAFFERTY:  
15 Q. Okay. And that's not a valid  
16 reason to increase 200 accounts 30 percent  
17 permanently, because of the Thanksgiving  
18 holiday, is it? That's wrong.  
19 MS. HENN: Objection to form.  
20 THE WITNESS: With only that  
21 information, I don't -- that's not the  
22 right -- yeah, I mean, that --  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. Well, that's all the  
25 information --

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1 A. Correct. I'm just saying there  
2 may be more information. But on its face,  
3 no, that's not right.  
4 Q. It's wrong, isn't it? It  
5 shouldn't be done?  
6 MS. HENN: Objection to form.  
7 THE WITNESS: Not in that  
8 specific way.  
9 QUESTIONS BY MR. RAFFERTY:  
10 Q. Well, not in a general way.  
11 Not in any way should 200 accounts be  
12 increased 30 percent for the reason  
13 "Thanksgiving holiday." Two words --  
14 MS. HENN: Objection to form.  
15 QUESTIONS BY MR. RAFFERTY:  
16 Q. -- "Thanksgiving holiday."  
17 30 percent increase.  
18 What -- in any way should that  
19 be right, correct?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: Agreed. Again, I  
22 don't have -- agree, but I don't have  
23 the context for exactly what was  
24 behind the scenes.  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. Well, this is the context we  
3 have. This is the TCR that was filed. These  
4 are the reasons that were given.  
5 A. I understand.  
6 Q. And nothing else.  
7 So as senior director of  
8 regulatory affairs for the retail national  
9 accounts, you can say, looking back, that  
10 this is wrong --  
11 MS. HENN: Objection to form.  
12 QUESTIONS BY MR. RAFFERTY:  
13 Q. -- and it shouldn't have  
14 happened?  
15 MS. HENN: Objection to form.  
16 THE WITNESS: If this is all  
17 that I had, then I would not do this.  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. And why?  
20 A. I would need more context.  
21 Q. Yeah. Because -- and there's  
22 absolutely no logic or reason or business  
23 reason to increase 200 accounts 30 percent  
24 permanently when the explanation is  
25 "Thanksgiving."

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1 Thanksgiving is not a permanent  
2 holiday, is it?  
3 MS. HENN: Objection to form.  
4 QUESTIONS BY MR. RAFFERTY:  
5 Q. Pretty sure for the week after  
6 Thanksgiving, Thanksgiving is not around for  
7 another year, right?  
8 A. Permanent in that it happens  
9 every year, but not permanent in that sense.  
10 Q. Is that what you think he meant  
11 here or are you just being -- I mean, you're  
12 making light of it, right?  
13 MS. HENN: Objection to form.  
14 THE WITNESS: No.  
15 QUESTIONS BY MR. RAFFERTY:  
16 Q. Because 30 percent is a  
17 significant increase for an RNA, isn't it?  
18 A. It could be. It depends on the  
19 amounts. It's a thousand to 1,300.  
20 Q. Well, that's a significant  
21 increase for that store, isn't it, if it's  
22 set at a thousand?  
23 A. It depends.  
24 Q. It depends?  
25 A. It depends.

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1 Q. If it's set at 10,000, then it  
2 goes to 13,000, right, which is an extra  
3 3,000 doses of narcotics being dispersed to  
4 that store, to that store, on the corner of  
5 Main Street every month --  
6 MS. HENN: Objection.  
7 QUESTIONS BY MR. RAFFERTY:  
8 Q. -- from now until there's  
9 another change because it's permanent, right?  
10 MS. HENN: Objection to form.  
11 THE WITNESS: It could be.  
12 QUESTIONS BY MR. RAFFERTY:  
13 Q. Yeah. 3,000 more narcotics put  
14 out in a town because of Thanksgiving  
15 holiday, right?  
16 MS. HENN: Objection to form.  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. In fact, you have been  
19 criticized -- when I say "you," I mean  
20 McKesson -- has been criticized for the way  
21 you handled threshold change requests after  
22 the implementation in 2008 of the CSMP,  
23 haven't you?  
24 MS. HENN: Objection to form.  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. The DOJ, as part of their  
3 investigation after 2008, part of that  
4 involved how you were handling threshold  
5 change requests, true?  
6 MS. HENN: Objection to form.  
7 THE WITNESS: Yes, it was part  
8 of those allegations.  
9 QUESTIONS BY MR. RAFFERTY:  
10 Q. Okay. And you've reviewed  
11 those -- that correspondence from the DOJ,  
12 right?  
13 A. Yes.  
14 MS. HENN: Objection to form.  
15 QUESTIONS BY MR. RAFFERTY:  
16 Q. Back in 2014, right?  
17 A. Yes.  
18 (McKesson-Hartle Exhibit 54  
19 marked for identification.)  
20 QUESTIONS BY MR. RAFFERTY:  
21 Q. Let's go to 1.1433. This will  
22 be Exhibit 54.  
23 Here we've got a letter from  
24 the US Department of Justice, John Walsh,  
25 District of Colorado.

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1 Do you see that?  
2 A. I do.  
3 Q. August 13, 2014. This is while  
4 you're there at McKesson now, right?  
5 A. Excuse me?  
6 Q. You're at McKesson as of August  
7 13, 2014?  
8 A. I am. In May, yeah.  
9 Q. Okay. You are senior  
10 regulatory affairs director for national  
11 accounts at that time, true?  
12 A. Correct.  
13 Q. All right. If we could, let's  
14 look at page -- and the title here is  
15 "Possible civil action against McKesson  
16 Corporation for violations of the Controlled  
17 Substances Act."  
18 Do you see that?  
19 A. I do.  
20 Q. And it says -- and this is a  
21 letter to your -- to McKesson's lawyers at  
22 Covington & Burling, the same lawyers here  
23 today, right? The same law firm?  
24 A. The same firm, yeah.  
25 Q. "The United States Attorney's

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1 Office for the District in Colorado, in  
2 conjunction with the DEA, is investigating  
3 whether the McKesson Corporation's Aurora  
4 distribution center, located at 14500 East  
5 39th Avenue, Aurora, Colorado, violated the  
6 Comprehensive Drug Abuse Prevention Control  
7 Act."  
8 Do you see that?  
9 A. I do.  
10 Q. And then throughout this  
11 letter, it goes through and lays out several  
12 different violations, correct?  
13 MS. HENN: Objection to form.  
14 THE WITNESS: Can you ask that  
15 question again, please?  
16 QUESTIONS BY MR. RAFFERTY:  
17 Q. Yeah.  
18 This letter goes through -- and  
19 we're going to go through some of it now and  
20 some of it this afternoon, but that's what  
21 this letter is doing, is they're notifying  
22 McKesson of violations of the Controlled  
23 Substance Act, right?  
24 MS. HENN: Objection to form.  
25 THE WITNESS: Their



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1 allegations, right.  
 2 QUESTIONS BY MR. RAFFERTY:  
 3 Q. Okay. So here it says, if you  
 4 turn to .11, skipping ahead, and it says,  
 5 "McKesson-Aurora's desire for increased sales  
 6 overrode its obligations to report suspicious  
 7 orders."  
 8 Section B, do you see that?  
 9 A. Yes.  
 10 Q. "Our investigation has revealed  
 11 a disturbing pattern: McKesson-Aurora's  
 12 desire for increased sales and retaining its  
 13 customers overrode its obligations to report  
 14 suspicious orders. We have identified this  
 15 trend across several different areas: 1,  
 16 McKesson-Aurora manipulated and circumvented  
 17 thresholds."  
 18 Do you see that?  
 19 A. I see that.  
 20 Q. "Thresholds were supposed to be  
 21 the linchpin of McKesson's compliance  
 22 program, but McKesson-Aurora manipulated  
 23 customers' threshold levels in numerous ways  
 24 to avoid rigorous internal review."  
 25 Did I read that right?

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1 A. You did.  
 2 Q. And in fact it says, "First,  
 3 McKesson-Aurora set its initial thresholds  
 4 for its pharmacy customers very high.  
 5 McKesson-Aurora's review process was not even  
 6 triggered until an individual pharmacy sold  
 7 more than 10 percent of that pharmacy's  
 8 average volume from a 12-month period from  
 9 2007 to 2008, a year in which McKesson had  
 10 settled claims because diversion was  
 11 flourishing in McKesson-supplied pharmacies."  
 12 Do you see that?  
 13 A. I do see that.  
 14 Q. That's what we were talking  
 15 about earlier, right, when I asked you about  
 16 if you set thresholds too high initially,  
 17 then the trigger for the evaluation is never  
 18 set off, right?  
 19 MS. HENN: Objection to form.  
 20 THE WITNESS: It's what we  
 21 discussed earlier, correct.  
 22 QUESTIONS BY MR. RAFFERTY:  
 23 Q. Yes.  
 24 And that's exactly now what the  
 25 District Attorney in Colorado, the

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1 US Attorney in Colorado, is telling McKesson  
 2 they were doing, right?  
 3 MS. HENN: Counsel, can I just  
 4 pause for a minute?  
 5 Counsel, if there's a need to  
 6 have conversations, we reserved a room  
 7 just next door, and I would ask you to  
 8 either refrain from talking and  
 9 distracting the witness or please  
 10 leave the room. Is that okay?  
 11 Thank you, sir.  
 12 QUESTIONS BY MR. RAFFERTY:  
 13 Q. All right. Going down here it  
 14 says -- that's exactly what your -- the  
 15 US Attorney in Colorado is accusing McKesson  
 16 of, right, setting the thresholds too high to  
 17 avoid the triggering of the tiered review?  
 18 That's what it says.  
 19 A. Right.  
 20 Q. Okay. "In some cases,  
 21 McKesson-Aurora set thresholds so high at the  
 22 outset that the pharmacy customer would never  
 23 exceed it and thus never trigger any review  
 24 as to whether an order was indeed  
 25 suspicious."

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1 Once again, the same thing we  
 2 were talking about earlier, right?  
 3 MS. HENN: Objection. Go  
 4 ahead.  
 5 QUESTIONS BY MR. RAFFERTY:  
 6 Q. Correct?  
 7 MS. HENN: Objection to form.  
 8 THE WITNESS: Right.  
 9 QUESTIONS BY MR. RAFFERTY:  
 10 Q. Right.  
 11 And that that was -- when I  
 12 asked you if that was a way to manipulate the  
 13 threshold process, was to set the threshold  
 14 so high that it never triggered the tier  
 15 review, that's what you're being accused of  
 16 by the US Attorney here, right?  
 17 MS. HENN: Objection to form.  
 18 THE WITNESS: That's what they  
 19 have in here, correct.  
 20 QUESTIONS BY MR. RAFFERTY:  
 21 Q. Okay. "Second" -- if you turn  
 22 to the next page, which is .12. "Second,  
 23 McKesson-Aurora routinely manipulated the  
 24 thresholds."  
 25 Do you see that?

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1 A. I do.  
2 Q. "It would often preemptively  
3 increase the threshold of its customers on  
4 particular drugs before the customers had  
5 even submitted a TCR seeking a threshold  
6 increase."  
7 There, that's where we're --  
8 that's -- they're talking about actually  
9 McKesson employees increasing the thresholds  
10 without even a request being made by the  
11 customer, right?  
12 MS. HENN: Objection to form.  
13 QUESTIONS BY MR. RAFFERTY:  
14 Q. That's what they're talking  
15 about?  
16 A. That's what they're talking  
17 about.  
18 Q. Okay. Down in the next  
19 paragraph, next full paragraph: "Time and  
20 time again, McKesson-Aurora increased a  
21 customer's threshold in a particular month so  
22 that the customer did not exceed that  
23 threshold and thus trigger McKesson-Aurora's  
24 obligation to conduct a level 2 or level 3  
25 review, much less file an SOR with the DEA."

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1 Do you see that?  
2 A. I see that.  
3 Q. And then, "Third,  
4 McKesson-Aurora was often willing to increase  
5 a pharmacy's threshold for the flimsiest of  
6 reasons and without adequate investigation,  
7 to give just a few of many examples."  
8 First of all, that  
9 Thanksgiving, you would refer to that or you  
10 would consider that a flimsy reason, right?  
11 MS. HENN: Objection to form.  
12 QUESTIONS BY MR. RAFFERTY:  
13 Q. Is Thanksgiving a flimsy  
14 reason, or the flimsiest of reasons?  
15 MS. HENN: Objection to form.  
16 QUESTIONS BY MR. RAFFERTY:  
17 Q. It may not even qualify as  
18 flimsy.  
19 MS. HENN: Same objection.  
20 THE WITNESS: I mean, on the  
21 surface it's not, by itself, a reason.  
22 There may be circumstances where in  
23 certain markets populations change and  
24 shift, so -- but on its own --  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. Did it say anything in that TCR  
3 about a population changing or shifting?  
4 A. It didn't. That's why I'm  
5 saying on its own, it's not.  
6 Q. So are you defending the fact  
7 that 200 customers were increased 30 percent  
8 because of, quote, the Thanksgiving holiday?  
9 A. No.  
10 MS. HENN: Objection to form.  
11 QUESTIONS BY MR. RAFFERTY:  
12 Q. Okay. Well, let's see some of  
13 the examples that the US Attorney used here,  
14 which are different than the Thanksgiving.  
15 "Dale's Pharmacy requested an  
16 increase of its oxycodone threshold on  
17 December 27, 2010. Dale's proffered  
18 justification was normal business with  
19 increased volume during the holidays."  
20 Do you see that?  
21 "Although there were only four  
22 days remaining in the month until Dale's  
23 oxycodone would be reset, McKesson-Aurora  
24 approved an 8,000 dosage unit increase of  
25 Dale's oxycodone threshold, increasing the

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1 threshold by 20.5 percent from 39,000 to  
2 47,000 dosage units."  
3 Do you see that?  
4 A. I see that.  
5 Q. "From June 2010 to  
6 November 2010, McKesson-Aurora justified  
7 many -- multiple threshold increases for  
8 Dale's Pharmacy based upon an alleged influx  
9 of customers due to the closure of a  
10 neighboring pharmacy in Fort Lupton. Several  
11 of the TCRs for Dale's justified requests for  
12 threshold increases on the grounds that the  
13 API Pharmacy had stopped selling controlled  
14 substances. In point of fact, the API  
15 Pharmacy had closed seven years earlier."  
16 You see that?  
17 A. I see that.  
18 Q. That's the kind of thing that  
19 you're supposed to, if you're actually  
20 effectively implementing the CSMP, that you  
21 should know, isn't that right, that you  
22 should detect?  
23 MS. HENN: Objection to form.  
24 THE WITNESS: It should be a  
25 piece of information you should know.

<p>Page 186</p> <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. Well, not -- yeah, that you</p> <p>3 should find -- you should be able to</p> <p>4 determine if you're actually doing due</p> <p>5 diligence and exercising due diligence in</p> <p>6 whether or not to increase a threshold,</p> <p>7 right?</p> <p>8 A. You should research that.</p> <p>9 Q. Okay. "The pharmacy at Salud,</p> <p>10 another pharmacy in Fort Lupton, did stop</p> <p>11 selling controlled substances for 19 days in</p> <p>12 2010. However, McKesson-Aurora allowed</p> <p>13 Dale's to rely on this closure excuse for</p> <p>14 continued threshold increases for another</p> <p>15 four months, even after the pharmacy at Salud</p> <p>16 was back up and running."</p> <p>17 Once again, something that if</p> <p>18 McKesson was using and exercising due</p> <p>19 diligence in its investigation it should</p> <p>20 determine and it should find out, right?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 THE WITNESS: Again, that</p> <p>23 information is critical to the</p> <p>24 decision, part of it.</p> <p>25</p>	<p>Page 188</p> <p>1 accommodate whatever purchasing occurred, or</p> <p>2 they were set so high that they never</p> <p>3 triggered any review."</p> <p>4 Q. And that's -- that means that</p> <p>5 the thresholds were being manipulated by</p> <p>6 McKesson in order to accommodate sales,</p> <p>7 right?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: That's the</p> <p>10 allegation in here.</p> <p>11 QUESTIONS BY MR. RAFFERTY:</p> <p>12 Q. Okay. And for example,</p> <p>13 allowing, for example, that 30 percent</p> <p>14 increase to 200 stores because of the</p> <p>15 Thanksgiving holiday, that would be an</p> <p>16 example of manipulating thresholds to</p> <p>17 accommodate sales, wouldn't it?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 THE WITNESS: And I have zero</p> <p>20 context for all the information on the</p> <p>21 decision that was actually made, other</p> <p>22 than what was in the form.</p> <p>23 QUESTIONS BY MR. RAFFERTY:</p> <p>24 Q. Based on what you've seen in</p> <p>25 the form, that would be manipulating the</p>
<p>Page 187</p> <p>1 QUESTIONS BY MR. RAFFERTY:</p> <p>2 Q. And should be found -- and</p> <p>3 should be discovered?</p> <p>4 MS. HENN: Objection to form.</p> <p>5 QUESTIONS BY MR. RAFFERTY:</p> <p>6 Q. Right?</p> <p>7 A. It should be part of it, yes.</p> <p>8 Q. And if you're exercising due</p> <p>9 diligence.</p> <p>10 Going down to the bottom: "In</p> <p>11 sum, the thresh -- the thresholds that were</p> <p>12 originally intended to trigger an</p> <p>13 investigation that could result in a</p> <p>14 suspicious order being reported to the DEA</p> <p>15 never served this purpose. McKesson did not</p> <p>16 set and then maintain its thresholds as</p> <p>17 required by its CSMP. The thresholds did not</p> <p>18 meaningfully restrict McKesson-Aurora's</p> <p>19 customers from obtaining controlled</p> <p>20 substances."</p> <p>21 And then read that next</p> <p>22 sentence, please.</p> <p>23 A. It starts "thresholds"?</p> <p>24 Q. Yep.</p> <p>25 A. "Thresholds were moved to</p>	<p>Page 189</p> <p>1 thresholds to accommodate sales, right?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 THE WITNESS: I wouldn't phrase</p> <p>4 it that way, but it's -- again, I</p> <p>5 would -- it's not a decision that I --</p> <p>6 I mean, it requires more context than</p> <p>7 what is on the form.</p> <p>8 QUESTIONS BY MR. RAFFERTY:</p> <p>9 Q. But if that's all the context</p> <p>10 you have, that would be an example of</p> <p>11 manipulating the thresholds to accommodate</p> <p>12 sales, right?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: Of changing the</p> <p>15 thresholds.</p> <p>16 QUESTIONS BY MR. RAFFERTY:</p> <p>17 Q. All right. Now let's --</p> <p>18 MS. HENN: Counsel, it's</p> <p>19 getting close to lunch and we've been</p> <p>20 going on an hour and 20 minutes.</p> <p>21 Would this be a good time for a break</p> <p>22 to get some lunch?</p> <p>23 MR. RAFFERTY: Well, it's up to</p> <p>24 the witness, obviously, but if we</p> <p>25 could accommodate ten more minutes, I</p>

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1 can get through this particular --  
2 THE WITNESS: What time is it?  
3 MS. HENN: It's 11:52 or 3.  
4 THE WITNESS: That's fine.  
5 MR. RAFFERTY: Is that okay?  
6 THE WITNESS: That's okay.  
7 MR. RAFFERTY: Totally up to  
8 you. I don't want to force you.  
9 THE WITNESS: No, that's okay.  
10 MS. HENN: Don't push it.  
11 (McKesson-Hartle Exhibit 55  
12 marked for identification.)  
13 QUESTIONS BY MR. RAFFERTY:  
14 Q. Now, in setting the  
15 threshold -- let's talk about setting the  
16 thresholds, because that was -- part of the  
17 allegations in here was the thresholds  
18 were -- part of the allegations in August  
19 of 2014 by the US Attorney was that the  
20 thresholds were being set too high, right?  
21 MS. HENN: Objection to form.  
22 THE WITNESS: That's part of  
23 the allegation.  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. Okay. And if we look at

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1 1.1461, which will be Exhibit 55 to the  
2 deposition.  
3 Now, this is from Nate Hartle.  
4 Do you see that at the top?  
5 A. I do.  
6 Q. Okay. Now -- and this is dated  
7 July 23, 2014, right?  
8 A. Yes.  
9 Q. So just about a month before  
10 that letter from the US Attorney, right?  
11 A. Correct.  
12 Q. That we just looked at?  
13 A. Right after I joined.  
14 Q. Okay. And this is right after  
15 you joined, right?  
16 (McKesson-Hartle Exhibit 56  
17 marked for identification.)  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. Okay. Now I want to show you  
20 1.1458, which will be Exhibit 56 to the  
21 deposition.  
22 All right. This is another  
23 e-mail from Nate Hartle, September 9, 2014.  
24 Do you see that?  
25 A. I do.

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1 Q. Okay. Let's focus on -- now,  
2 this is about a month after you got the  
3 letter, so let's be clear.  
4 You got Exhibit 55, your e-mail  
5 dated July 23, 2014, and that's dealing with  
6 a TCR, a threshold change request, from  
7 Wegmans.  
8 Do you see that?  
9 A. I see that.  
10 Q. Okay. And then the letter from  
11 the US Attorney is sent a month later, in  
12 August, alleging that the thresholds were  
13 being set too high by McKesson in order to  
14 avoid detection of suspicious orders. That  
15 was the allegation, right?  
16 A. It was.  
17 Q. Okay. And then a -- at least a  
18 short time after that letter is Exhibit 56,  
19 which is the September 9, 2014 letter.  
20 Do you see that -- or e-mail?  
21 A. Yes.  
22 Q. All right. So a month after  
23 you -- that letter is sent to McKesson's  
24 lawyers, you write a letter -- or an e-mail,  
25 I'm sorry, dated September 9, 2014, up at the

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1 top, and you copy Micheal Bishop as well as  
2 Michael Oriente.  
3 Do you see that?  
4 A. I do.  
5 Q. And then it says, "Wakefern  
6 threshold methodology."  
7 You see that?  
8 A. I do.  
9 Q. And what it says is,  
10 "Sensitivity: Company, confidential," right?  
11 Don't share it outside the  
12 walls of McKesson, right?  
13 MS. HENN: Objection to form.  
14 THE WITNESS: It's classified  
15 confidential, yeah.  
16 QUESTIONS BY MR. RAFFERTY:  
17 Q. "Bishop: You asked on the call  
18 about the methodology we have used in the  
19 past, so below is what we will use. This  
20 will be the same as what we will need to do  
21 with the new NRA {sic} volume for  
22 hydrocodone."  
23 So what you're doing is you're  
24 asking -- you're telling him about how to set  
25 an initial threshold for this, right?



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1 A. Correct.  
2 Q. All right. And what you say  
3 is, let's calculate it using the total doses  
4 times distribution settle norm times buffer.  
5 Do you see that?  
6 A. I see that.  
7 Q. Okay. And you're familiar with  
8 that calculation being one that you've used  
9 during your time at McKesson, right?  
10 A. Well, this is shortly -- I had  
11 only been with McKesson for a few months.  
12 I'm familiar with that one as having been  
13 used.  
14 Q. Okay. This has been used in  
15 the past; that's what you said?  
16 A. Similar concept.  
17 Q. Okay. "Buffer, we've used  
18 25 percent in the past, so that is what I've  
19 put in for now. And then rounding, we will  
20 also round up to the nearest 500."  
21 Do you see that?  
22 A. I see that.  
23 Q. So to make sure we're clear,  
24 you're using a threshold determination that  
25 was used in the past, and you're doing it --

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1 you're using the same threshold process that  
2 was used in the past just a few weeks after  
3 the US Attorney said you're setting the  
4 thresholds too high to avoid detection,  
5 right?  
6 MS. HENN: Objection to form.  
7 THE WITNESS: Can you ask that  
8 again or rephrase it?  
9 QUESTIONS BY MR. RAFFERTY:  
10 Q. Yeah.  
11 You're saying here, let's use  
12 the same methodology we used in the past,  
13 right? That's what you said?  
14 A. That's what -- that's in here.  
15 Q. Okay.  
16 A. This relates to --  
17 Q. And this was a few weeks after  
18 having gotten the letter from the US Attorney  
19 specifically alleging that you are setting  
20 the thresholds too high in order to avoid  
21 detection of suspicious orders, right?  
22 That's the time frame?  
23 A. That's the timing.  
24 Q. Okay. So you stick with the  
25 methodology used in the past, and the

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1 methodology is, you take the total doses  
2 and -- well, strike that.  
3 The buffer. What you do is you  
4 take a certain number. Is it the max number  
5 for the last six months? The max number for  
6 the last 12 months? What is it?  
7 A. I'm not sure what it was on  
8 this particular one.  
9 Q. Okay. But that's typically  
10 what you've done in the past is taken either  
11 the last six months' sales and found the  
12 highest month or the last 12 months' sales  
13 and found the highest month sales, right --  
14 MS. HENN: Objection to form.  
15 QUESTIONS BY MR. RAFFERTY:  
16 Q. -- as the foundation?  
17 MS. HENN: Objection to form.  
18 THE WITNESS: Typically using  
19 dispensing data.  
20 QUESTIONS BY MR. RAFFERTY:  
21 Q. Okay.  
22 A. Not purchasing.  
23 Q. Okay. But the highest 12-month  
24 or the highest 6-month, right?  
25 A. We've used those --

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1 MS. HENN: Objection to form.  
2 Go ahead.  
3 THE WITNESS: Those are part of  
4 the calculations at the time.  
5 QUESTIONS BY MR. RAFFERTY:  
6 Q. Okay. And then what you do is  
7 you take that highest number, the highest  
8 number you can get over the last year, and  
9 you tack on 25 percent above it, right?  
10 MS. HENN: Objection to form.  
11 QUESTIONS BY MR. RAFFERTY:  
12 Q. That's the buffer, 25 percent?  
13 A. That's what a buffer is.  
14 Q. That's what a buffer is.  
15 Okay. So if a store's max  
16 number of last 12 months was 10,000, you  
17 automatically set the threshold -- or you  
18 automatically add a buffer of another 2,500,  
19 right?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: That's how the  
22 math works.  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. That's how the math works.  
25 A. Dispensing versus purchasing.



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1 Q. Okay. And then what you do  
2 after that is you then round it up to the  
3 next 500. So if it's -- if the number ends  
4 up falling at 12,501, you then jack it up  
5 another 499 and put it at 13,000 so that  
6 the -- the max number of dispensing in a  
7 month was 10,000, your buffer is now 13,000,  
8 or 30 percent higher, than what it is they've  
9 ever dispensed in the prior year, right?

10 MS. HENN: Objection to form.  
11 THE WITNESS: That's the math.  
12 The rounding is for -- you can't --  
13 for bottle size factors, typically.

14 QUESTIONS BY MR. RAFFERTY:  
15 Q. Well, but you're rounding up.  
16 Why not round it down? You don't round it  
17 down, do you?

18 A. Typically don't.  
19 Q. No. You round it up because  
20 that increases the threshold, and that  
21 reduces the risk that they're going to bump  
22 up against the threshold and reduce the  
23 chance that you're going to have to actually  
24 conduct an investigation on somebody as  
25 valuable of a customer such as Rite Aid,

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1 right?  
2 You're jacking the thresholds  
3 up as high as you can; isn't that what you're  
4 doing?

5 MS. HENN: Objection to form.  
6 THE WITNESS: No.  
7 QUESTIONS BY MR. RAFFERTY:  
8 Q. Well, you're not rounding down;  
9 we can agree on that, right?

10 A. The intent --  
11 Q. You're not rounding down. That  
12 was my question.  
13 A. That's -- we're not rounding  
14 down.  
15 Q. Right.  
16 MS. HENN: And the witness can  
17 finish his answer if he'd like.  
18 MR. RAFFERTY: Well, it wasn't  
19 responsive to my question.  
20 MS. HENN: He can finish his  
21 answer if he'd like.  
22 QUESTIONS BY MR. RAFFERTY:  
23 Q. Go ahead.  
24 A. I don't recall every single  
25 detail associated with these, as they've

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1 been -- they were a few months after I joined  
2 the team. The intent is to allow a customer  
3 in -- to purchase, to meet that legitimate  
4 dispensing. And there are reasons why there  
5 are buffers on top of a dispensing amount,  
6 even a purchasing amount, because there is  
7 significant variation in purchasing patterns  
8 at times.

9 Q. It just happens to have the  
10 added benefit of increasing the threshold so  
11 high that it's 30 percent higher than any  
12 time in any month they've ever dispensed,  
13 right? That's just an added bonus?

14 MS. HENN: Objection to form.  
15 THE WITNESS: I wouldn't call  
16 it an added bonus. Again, the intent  
17 is to try to allow them to purchase --  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. Okay.  
20 A. -- to get their legitimate  
21 dispensing.  
22 Q. Okay. Well, you could have --  
23 strike that.  
24 Let's look at the exhibit, this  
25 July 23, 2014 e-mail. This was the month

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1 before the August 2014 letter from the  
2 US Attorney.  
3 "Hi, guys" --  
4 This is from you, right, Nate  
5 Hartle?  
6 A. It is.  
7 Q. Okay. "Hi, guys, I took a look  
8 this morning and have a few questions and  
9 comments." Now, this is -- the subject  
10 matter is "Wegmans TCR request."  
11 So what they're looking at is  
12 what to set Wegmans levels at. Would you  
13 agree with that? Threshold?  
14 If you look at page .4, Shari  
15 Pickell e-mail --  
16 A. Yes.  
17 Q. -- to you -- well, cc'd you.  
18 And it says, "Please see the  
19 attached TCR report and dispensing data for  
20 oxycodone for Wegmans stores."  
21 A. Right.  
22 Q. "With their new contract, they  
23 are moving their incremental volume over to  
24 McKesson."  
25 So they're moving business to

<p style="text-align: right;">Page 202</p> <p>1 McKesson now, right?</p> <p>2 A. Correct.</p> <p>3 Q. "Please adjust thresholds</p> <p>4 accordingly." So there's some back and</p> <p>5 forth.</p> <p>6 And then ultimately it looks</p> <p>7 like on the base codes -- what are the base</p> <p>8 codes 9813 and 9814; do you know?</p> <p>9 A. Those aren't -- those aren't</p> <p>10 current ones in our -- so I can't --</p> <p>11 Q. At the time was oxycodone and</p> <p>12 oxy 30, right?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 QUESTIONS BY MR. RAFFERTY:</p> <p>15 Q. Well, either way it's --</p> <p>16 A. I can't --</p> <p>17 Q. -- it's one -- it's a -- it's</p> <p>18 a --</p> <p>19 MS. HENN: One at a time,</p> <p>20 please.</p> <p>21 QUESTIONS BY MR. RAFFERTY:</p> <p>22 Q. It's an opioid.</p> <p>23 A. Yeah.</p> <p>24 Q. They're opioids, right?</p> <p>25 A. Yeah.</p>	<p style="text-align: right;">Page 204</p> <p>1 Q. All right. So what -- they</p> <p>2 look here, and it looks like some of the</p> <p>3 base -- thresholds based on the calculations</p> <p>4 actually may be going down; is that right?</p> <p>5 A. Can you say that again or point</p> <p>6 me to what you're talking about?</p> <p>7 Q. Yeah, well, let's go up here.</p> <p>8 And you say, "Hi, guys, I took</p> <p>9 a look this morning and have a few</p> <p>10 questions/comments."</p> <p>11 Do you see that?</p> <p>12 A. Uh-huh.</p> <p>13 Q. "One, do we really want to be</p> <p>14 lowering thresholds right now?"</p> <p>15 Do you see you asking that</p> <p>16 question?</p> <p>17 A. Uh-huh.</p> <p>18 Q. And then it says and it goes</p> <p>19 on, "If the current ones are still within</p> <p>20 normal level, with thresholds barely above</p> <p>21 the average and sometimes lower than the max,</p> <p>22 this may cause issues like unnecessary</p> <p>23 omits," right?</p> <p>24 A. Uh-huh.</p> <p>25 Q. So what you're saying is, let's</p>
<p style="text-align: right;">Page 203</p> <p>1 Q. They're Schedule II?</p> <p>2 A. They're not the current base</p> <p>3 code numbers today, so that's why I'm not</p> <p>4 recalling exactly, but, yeah.</p> <p>5 Q. Well, we know they're narcotic</p> <p>6 painkillers, right? They're Schedule II</p> <p>7 drugs?</p> <p>8 A. They're listed in here. I'll</p> <p>9 give you that.</p> <p>10 Q. Oh, oxycodone there. Where?</p> <p>11 Yeah, okay. Yeah, dispensing</p> <p>12 data for oxycodone.</p> <p>13 MS. HENN: What are you</p> <p>14 referring to?</p> <p>15 MR. RAFFERTY: Page .4 in the</p> <p>16 original e-mail from Shari Pickell.</p> <p>17 THE WITNESS: Shari may have</p> <p>18 put -- transposed the numbers. The</p> <p>19 numbers are 9143 and 9144 --</p> <p>20 QUESTIONS BY MR. RAFFERTY:</p> <p>21 Q. You're right. You're right.</p> <p>22 A. -- so I think that's probably</p> <p>23 the case.</p> <p>24 Q. Okay. Either way.</p> <p>25 A. Yeah, right.</p>	<p style="text-align: right;">Page 205</p> <p>1 use a different calculation than what was</p> <p>2 being proposed, right?</p> <p>3 MS. HENN: Objection to form.</p> <p>4 QUESTIONS BY MR. RAFFERTY:</p> <p>5 Q. In number 3?</p> <p>6 "I was thinking we would do</p> <p>7 something more like we did with the Rite Aid</p> <p>8 recently. For example, we used total RX</p> <p>9 times the DC norm and add a buffer. In</p> <p>10 Wegmans' case, we could probably start with a</p> <p>11 buffer on top of their max amount."</p> <p>12 So that's what we were talking</p> <p>13 about, the system that you were using in</p> <p>14 September, right? Take the max amount per</p> <p>15 month of dispensing --</p> <p>16 A. Right.</p> <p>17 Q. -- add a buffer.</p> <p>18 Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. All right. And then round up.</p> <p>21 It says, "Take max and add a buffer, i.e.,</p> <p>22 20 percent."</p> <p>23 Back then it was 20 percent in</p> <p>24 July, right? It went up to 25 percent in</p> <p>25 your e-mail in September?</p>

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1 MS. HENN: Objection to form.  
2 QUESTIONS BY MR. RAFFERTY:  
3 Q. But here it says, "take" -- it  
4 says, "Logic, take max and add a buffer,  
5 i.e., 20 percent, to round up to the nearest  
6 500."  
7 Do you see that?  
8 A. I see that.  
9 Q. So once again, taking whatever  
10 number it is -- and so you give an example  
11 down below, store number 1. The max monthly  
12 dispensing for that store at 11,800, add the  
13 20 percent buffer puts it at 14, 1,060 {sic},  
14 new threshold, 14,500.  
15 Do you see that?  
16 A. I see that.  
17 Q. So instead of -- so that's  
18 almost 3,000 doses per month higher than  
19 their max dispensing, right?  
20 MS. HENN: Objection to form.  
21 QUESTIONS BY MR. RAFFERTY:  
22 Q. That's an example.  
23 A. It's an example.  
24 Q. Okay.  
25 A. I would again contend I don't

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1 know all the details or recall every single  
2 detail, but the idea is to allow for  
3 legitimate dispensing and normal variations  
4 in purchasing, so --  
5 Q. That's not what the US Attorney  
6 in Colorado put in the allegations against  
7 your company, was it? That's not -- that  
8 wasn't -- that wasn't the allegation, was it?  
9 MS. HENN: Objection to form.  
10 THE WITNESS: No. That's not  
11 the language in there, no.  
12 QUESTIONS BY MR. RAFFERTY:  
13 Q. And in fact, that Aurora  
14 conduct in that particular letter was part of  
15 the 2017 settlement that resulted in the  
16 \$150 million fine that McKesson paid,  
17 correct?  
18 MS. HENN: Objection to form.  
19 THE WITNESS: It was one of the  
20 allegations that led to the ultimate  
21 settlement.  
22 QUESTIONS BY MR. RAFFERTY:  
23 Q. Right.  
24 That you -- that McKesson  
25 accepted responsibility for, correct?

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1 MS. HENN: Objection to form.  
2 THE WITNESS: Correct.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. All right. Now --  
5 MS. HENN: Counsel, we're going  
6 to need to take a break. It's been an  
7 hour and 40 minutes.  
8 VIDEOGRAPHER: Okay. The time  
9 is 12:08 p.m., and we're going off the  
10 record.  
11 (Off the record at 12:08 p.m.)  
12 VIDEOGRAPHER: The time is  
13 1:01 p.m., and we're back on the  
14 record.  
15 QUESTIONS BY MR. RAFFERTY:  
16 Q. Mr. Hartle, just to kind of  
17 close the loop on where we were before the  
18 lunch break.  
19 Now, we reviewed a couple  
20 documents. I'm not going to go back through  
21 where -- the policy that you were using, or  
22 the formula you were using, to set new  
23 thresholds included the maximum dispensing  
24 amount for a month from the previous 12-month  
25 period, correct?

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1 A. I don't know if both of them  
2 were 12 months, but we're using the  
3 dispensing amounts, yeah.  
4 Q. Okay. The max dispensing  
5 amount.  
6 A. Yeah.  
7 Q. And then adding a buffer, as  
8 it's referred to, right?  
9 A. Correct.  
10 Q. And in one it was a 20 percent  
11 buffer and one it was a 25 percent buffer,  
12 right?  
13 A. Uh-huh.  
14 Q. Okay. And then rounding up to  
15 the nearest 500 in addition to the buffer?  
16 A. Right.  
17 Q. Okay. So I just want to  
18 reorient us. If we could take a look at  
19 Exhibit 54 that you've got there, which is a  
20 letter from the US Attorney, District of  
21 Colorado, dated August 13, 2014.  
22 That's -- this is the one that  
23 was right in the middle of the two -- the  
24 date that was in the middle of the two  
25 e-mails that we were discussing.

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1 You recall that?

2 A. Yes.

3 Q. Okay. So this is August 2014.

4 If we look at page .11, please,

5 what he's -- what he's being critical of, and

6 the allegation in here in terms of the

7 McKesson-Aurora manipulated and circumvented

8 thresholds is, first he says,

9 "McKesson-Aurora set its initial thresholds

10 for its pharmacy customers very high.

11 McKesson-Aurora's review process was not even

12 triggered," meaning the threshold -- a

13 threshold excursion, right?

14 MS. HENN: Objection to form.

15 QUESTIONS BY MR. RAFFERTY:

16 Q. "The process was -- the review

17 process was not even triggered until an

18 individual pharmacy sold more than 10 percent

19 of that pharmacy's average volume for a

20 12-month period from 2007 to 2008."

21 You see that?

22 A. I see that.

23 Q. Okay. So if we look at that,

24 what he's saying there is there was a 10

25 percent buffer built in over the pharmacy's

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1 average volume from a 12-month period, right?

2 A. Correct.

3 Q. Which is lower than the 20 to

4 25 percent buffer you used. And this uses an

5 average volume from a 12-month period, which

6 is lower than the max value for a month in

7 the prior 12 months, right?

8 A. Correct. This is purchasing

9 versus dispensing in mine.

10 Q. So this is actually a lower

11 formula than what you were using, and what he

12 is alleging is the manipulation of the

13 thresholds; isn't that right?

14 MS. HENN: Objection to form.

15 THE WITNESS: The percentages

16 are, but, again, this is off of

17 purchasing versus dispensing, which

18 are two different things.

19 QUESTIONS BY MR. RAFFERTY:

20 Q. Right. I understand that.

21 A. Right.

22 Q. But here it's a 10 percent

23 buffer, and it's the average of the 12-month

24 period, right?

25 A. Correct.

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1 Q. Okay. Now, if we go back to

2 your July 2014 e-mail, which is exhibit -- it

3 should be one of the just last couple but --

4 I think 55. 55, I'm sorry.

5 This is July 23, 2014, and this

6 is the one where you asked, "Do we really

7 want to be lowering thresholds right now?"

8 Do you see that?

9 A. I see that.

10 Q. Now, during this time period in

11 2014, do you know -- when you're asking that

12 question about lowering thresholds, do you

13 know what's going on in the country in terms

14 of the opioid epidemic?

15 A. I do.

16 Q. Okay. In fact, it was during

17 this same time period we looked at the

18 document in 2014 that said that a person was

19 dying in the United States from an opioid

20 overdose every 19 minutes, right?

21 MS. HENN: Objection to form.

22 THE WITNESS: Agree.

23 QUESTIONS BY MR. RAFFERTY:

24 Q. So while you are asking the

25 question, should we be lowering thresholds,

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1 which is the very mechanism by which you

2 trigger the investigation and the review for

3 suspicious orders, and you're saying should

4 we be lowering them and doing that, people

5 are dying from opioids, right?

6 MS. HENN: Objection to form.

7 THE WITNESS: I understand

8 people are dying from opiates.

9 QUESTIONS BY MR. RAFFERTY:

10 Q. And they're dying while you're

11 asking the question about whether we should

12 be lowering thresholds, right?

13 MS. HENN: Objection to form.

14 THE WITNESS: My asking of that

15 question or in -- just in general

16 is -- there's reasons why it may --

17 lowering thresholds, based on the

18 facts and circumstances, may prevent

19 legitimate dispensing.

20 The idea is to make sure we

21 know what the business model change

22 might be and we account for legitimate

23 dispensing.

24 QUESTIONS BY MR. RAFFERTY:

25 Q. One of the reasons -- one of

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1 the things that happens when you lower  
2 thresholds is it increases omit reports and  
3 it increases oversight into the purchasing  
4 and helps identify suspicious orders, right?  
5 MS. HENN: Objection to form.  
6 QUESTIONS BY MR. RAFFERTY:  
7 Q. Isn't that one of the things it  
8 does?  
9 MS. HENN: Objection to form.  
10 THE WITNESS: Can you restate  
11 that question for me, please?  
12 QUESTIONS BY MR. RAFFERTY:  
13 Q. Yeah.  
14 One of the results of lowering  
15 thresholds are an increase in omit reports,  
16 meaning stops -- where it says, hey, listen,  
17 there's a -- there's a -- there's a red flag  
18 here, and so you need to look into this and  
19 see if it's a suspicious order, right?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: Right, it can  
22 cause -- lowered thresholds could  
23 cause omits.  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. It can cause omits. And if you

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1 have an omit, it triggers an analysis and an  
2 investigation as to whether the order is  
3 suspicious and therefore subject to being  
4 diverted into illegal purposes, right?  
5 MS. HENN: Objection to form.  
6 THE WITNESS: As part of the  
7 previous program, the CSMP --  
8 QUESTIONS BY MR. RAFFERTY:  
9 Q. Correct.  
10 The program we're talking about  
11 and the program that resulted in the 2017  
12 settlement, right, that was involved in the  
13 2017 settlement and the \$150 million fine?  
14 MS. HENN: Objection to form.  
15 THE WITNESS: Parts of that  
16 program.  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. Yes.  
19 A. Yeah.  
20 Q. So when you are questioning  
21 lowering thresholds, you know at the time  
22 that you're writing that that people are  
23 dying because of the opioid epidemic that the  
24 company you're working for, McKesson, is  
25 partially responsible for, right?

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1 MS. HENN: Objection to form.  
2 THE WITNESS: I know that  
3 people are dying during that time.  
4 QUESTIONS BY MR. RAFFERTY:  
5 Q. Because of the opioid epidemic,  
6 true?  
7 A. True.  
8 Q. The drugs that you're selling?  
9 MS. HENN: Objection to form.  
10 THE WITNESS: The types of  
11 drugs we sell.  
12 QUESTIONS BY MR. RAFFERTY:  
13 Q. And the threshold are one  
14 method -- lowering thresholds would be one  
15 method within which to combat the diversion  
16 of drugs, of the opioid drugs, right?  
17 A. It can. Lowering thresholds  
18 can limit the ability to get -- for  
19 legitimate reasons cause omits that  
20 statistically may not be -- should be omits.  
21 Q. Well, all that does is require  
22 you to look into it, right? It's just a  
23 little more work on McKesson's part. If it  
24 turns out the omit should -- it should go  
25 through, then it goes through, right?

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1 MS. HENN: Objection to form.  
2 THE WITNESS: We look at a  
3 variety of other data points as well  
4 as part of our program.  
5 QUESTIONS BY MR. RAFFERTY:  
6 Q. My question was a yes or no.  
7 MS. HENN: Objection to form.  
8 THE WITNESS: Can you restate  
9 your question for me, please?  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. If lowering the threshold  
12 increases the omit reports, all that requires  
13 or entails is more investigation and more  
14 research on your part, on McKesson's part, to  
15 see whether or not that order is suspicious,  
16 right?  
17 MS. HENN: Objection to form.  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. You can release it ultimately;  
20 you just have to look at it, right?  
21 MS. HENN: Objection to form.  
22 THE WITNESS: I don't  
23 understand the question specifically,  
24 what you're trying to --  
25



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1 QUESTIONS BY MR. RAFFERTY:  
 2 Q. Well, you're saying it can  
 3 result in more omit reports, lowering the  
 4 threshold.  
 5 A. It could.  
 6 Q. The upside of having more omit  
 7 reports is it gives you more oversight  
 8 because you're looking into the actual  
 9 transactions more, right?  
 10 That's the upside, because you  
 11 should be wanting to do that to prevent  
 12 suspicious orders, right?  
 13 MS. HENN: Objection to form.  
 14 THE WITNESS: That's one of the  
 15 things that we could do to --  
 16 QUESTIONS BY MR. RAFFERTY:  
 17 Q. Right.  
 18 A. -- to look into more.  
 19 Q. Yeah, that's right.  
 20 The downside for McKesson is it  
 21 causes you to do more work. The more omit  
 22 reports, the more level 1 reviews and the  
 23 more you -- the more time you have to spend  
 24 looking at the actual transaction, fair?  
 25 MS. HENN: Objection to form.

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1 THE WITNESS: It's -- in all my  
 2 experience, in any decisions I've  
 3 made, I've never factored in and  
 4 thought about workload.  
 5 QUESTIONS BY MR. RAFFERTY:  
 6 Q. I'm just talking about from a  
 7 practical standpoint, if you increase the  
 8 omit reports, the only downside, the only bad  
 9 part of that is you, McKesson, has to do more  
 10 work to look at those omit -- to look at the  
 11 orders, right?  
 12 MS. HENN: Objection to form.  
 13 THE WITNESS: I don't think  
 14 that's the only -- again, I think, you  
 15 know, a downside of not allowing a  
 16 customer to meet their legitimate  
 17 dispensing is they can --  
 18 QUESTIONS BY MR. RAFFERTY:  
 19 Q. Well, you can clear them in  
 20 like a minute, right?  
 21 MS. HENN: Counsel, let's let  
 22 him finish his answer.  
 23 MR. RAFFERTY: Sorry.  
 24 THE WITNESS: That's not how  
 25 the process works today during this

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1 time frame.  
 2 QUESTIONS BY MR. RAFFERTY:  
 3 Q. Okay. When you get a level  
 4 1 -- you cleared level 1 omit reports or  
 5 investigations very quickly, same day in many  
 6 instances, right?  
 7 MS. HENN: Objection to form.  
 8 THE WITNESS: I'm not -- I was  
 9 not involved in level 1, that CSMP  
 10 process.  
 11 QUESTIONS BY MR. RAFFERTY:  
 12 Q. Okay. But you know that those  
 13 were cleared and, in fact, had as a policy in  
 14 many regards to have it cleared within a day?  
 15 A. Some can be cleared quickly --  
 16 Q. Okay.  
 17 A. -- based on the facts and  
 18 circumstances.  
 19 Q. Right.  
 20 So you can clear it; you just  
 21 have to investigate it, right? You have to  
 22 spend some time looking at it, right?  
 23 MS. HENN: Objection to form.  
 24 THE WITNESS: Some of them,  
 25 right.

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1 QUESTIONS BY MR. RAFFERTY:  
 2 Q. And that's not a bad thing.  
 3 Shouldn't be.  
 4 MS. HENN: Objection to form.  
 5 THE WITNESS: It's not a bad  
 6 thing to use information to -- other  
 7 pieces of information to do due  
 8 diligence.  
 9 QUESTIONS BY MR. RAFFERTY:  
 10 Q. But you only get to that if the  
 11 threshold -- there's a threshold excursion,  
 12 right?  
 13 MS. HENN: Objection to form.  
 14 THE WITNESS: That's one way to  
 15 trigger a review of a customer.  
 16 (McKesson-Hartle Exhibit 58  
 17 marked for identification.)  
 18 QUESTIONS BY MR. RAFFERTY:  
 19 Q. Okay. Now -- all right.  
 20 Looking at P1.88, this is a copy of the  
 21 administrative memorandum of agreement  
 22 pertaining to the 2017 settlement.  
 23 Have you reviewed this before?  
 24 A. I have.  
 25 Q. Okay. And if you would, please

<p style="text-align: right;">Page 222</p> <p>1 turn to the back page, which is P -- I'm 2 sorry, page 14. Page 14. 3 Oh, I'm sorry, it's 58. I'm 4 sorry, did you -- have you seen this before, 5 Mr. Hartle? 6 A. I have. 7 Q. Okay. If you would, turn to 8 page 14. And if you look over there, the 9 signatures of the acting administrator of the 10 Drug Enforcement Administration and assistant 11 administrator for the Diversion Control 12 Division of DEA; do you see that? 13 A. I see that. 14 Q. And those are dated January 17, 15 2017, right? 16 A. Correct. 17 Q. And that's the date that the 18 agreement was finalized and the \$150 million 19 fine was levied, correct? 20 MS. HENN: Objection to form. 21 THE WITNESS: That's the date. 22 (McKesson-Hartle Exhibit 59 23 marked for identification.) 24 QUESTIONS BY MR. RAFFERTY: 25 Q. Okay. Now, I'm going to show</p>	<p style="text-align: right;">Page 224</p> <p>1 concerns were, "One, that manufacturers would 2 stockpile the product and release it at a 3 higher price; two, McKesson would stockpile 4 and release at a higher price; and three, 5 thresholds would be dramatically cut." 6 Do you see that? 7 MS. HENN: Objection to form. 8 THE WITNESS: I see that. 9 QUESTIONS BY MR. RAFFERTY: 10 Q. Okay. And then if you go up, 11 he says here, "I recommend" -- "I commented 12 that this was part of an effort to take out 13 the 25 percent buffer that was put in place a 14 few years ago but wasn't sure how to respond 15 to their question about impact." 16 Do you see that? 17 A. I see that. I think that -- 18 that 25 percent buffer is not related to our 19 buffers. That's related to -- 20 Q. No, I understand. 21 A. -- the DEA quota, buffer, 22 right. 23 Q. Right. 24 As to how much raw product can 25 be provided to the manufacturers, correct?</p>
<p style="text-align: right;">Page 223</p> <p>1 you a copy of what we're going to mark as 2 Exhibit 59, which is an e-mail from 3 January 30, 2017, from you. And if you 4 could, I want -- 5 MR. RAFFERTY: It's 1.1449, 6 Corey. 7 QUESTIONS BY MR. RAFFERTY: 8 Q. What I'd like to do is direct 9 your attention to the bottom e-mail first 10 from Dan Jefferies. 11 Do you see that? 12 A. I do. 13 Q. Do you know Mr. Jefferies? 14 A. I do. 15 Q. Do you recall this e-mail? 16 A. I do not. 17 Q. Okay. It says, "Subject, 18 opioid reductions." 19 Do you see that? 20 A. I see that. 21 Q. Okay. And he's talking about 22 some discussion at a Topco meeting. 23 Do you see that? 24 A. I do. 25 Q. Okay. And he says their</p>	<p style="text-align: right;">Page 225</p> <p>1 A. Correct. 2 Q. And -- but one of their 3 concerns was going to be that thresholds 4 would be drastically cut, right? 5 MS. HENN: Objection to form. 6 THE WITNESS: Say that again? 7 QUESTIONS BY MR. RAFFERTY: 8 Q. One of their concerns was that 9 thresholds would be dramatically cut. 10 MS. HENN: Objection to form. 11 QUESTIONS BY MR. RAFFERTY: 12 Q. I just read it to you. 13 A. Right. I'm just looking. 14 Right. 15 Q. Okay. And Topco, so that we're 16 clear, is one of the national chains, the 17 national accounts, right? 18 A. It's a buying group that has 19 chains associated with it, but it's in our 20 segment. 21 Q. Right. Okay. It's in your 22 segment -- 23 A. Correct. 24 Q. -- under your control -- 25 A. Correct.</p>

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1 Q. -- which is why you're  
2 discussing this with we.  
3 A. Correct.  
4 Q. So up here you respond and you  
5 say, "You were right in that the reduction  
6 was just taking out a buffer, so we have no  
7 concerns and do not anticipate any negative  
8 impact. This should be a nonissue, so it is  
9 business as usual from a threshold  
10 perspective."  
11 Right? That's what you said?  
12 A. Correct.  
13 Q. And this is January 30, 2017,  
14 right after signing -- this is less than two  
15 weeks after signing the memorandum of  
16 understanding regarding the \$150 million fine  
17 which included allegations in terms of how  
18 your thresholds were set, how your --  
19 McKesson's thresholds were set, right?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: That's the  
22 timing.  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. Yeah.  
25 A. Yeah.

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1 Q. And so within two weeks you're  
2 comforting your clients and saying, as far as  
3 thresholds -- our thresholds are concerned,  
4 it's business as usual, right?  
5 MS. HENN: Objection to form.  
6 THE WITNESS: The context of  
7 this is that -- the "business as  
8 usual" meaning the thresholds have  
9 been established for those customers,  
10 they're set in a way that allows them  
11 to meet their dispensing, and we don't  
12 believe that there's going to be an  
13 impact to those. And if they -- they  
14 have a reason to request an increase,  
15 that we'd follow the normal process.  
16 QUESTIONS BY MR. RAFFERTY:  
17 Q. Right.  
18 McKesson is business as usual  
19 in regards to the way you set thresholds for  
20 your customers, right?  
21 MS. HENN: Objection to form.  
22 QUESTIONS BY MR. RAFFERTY:  
23 Q. That's what you're saying  
24 there?  
25 MS. HENN: Objection to form.

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1 THE WITNESS: For these  
2 customers, yeah.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. Right.  
5 Which includes what we just  
6 went through, which was the 25 percent buffer  
7 or the 20 percent buffer and the max rounding  
8 up and all that, correct?  
9 MS. HENN: Objection to form.  
10 THE WITNESS: Logic to  
11 determine a threshold for a customer  
12 based on their dispensing.  
13 QUESTIONS BY MR. RAFFERTY:  
14 Q. Right.  
15 The very thing that the DOJ  
16 made as part of their -- or that was part of  
17 the settlement agreement in 2017, true?  
18 MS. HENN: Objection to form.  
19 QUESTIONS BY MR. RAFFERTY:  
20 Q. True?  
21 A. I would say it's not the very  
22 thing, the exact thing.  
23 Q. Well, if it's -- if that's  
24 being discussed in 2017 as part of the  
25 settlement agreement, which it is laid out

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1 into -- or in the agreement, and you're  
2 comforting your clients, no -- your  
3 customers, don't worry, it's business as  
4 usual, right? You're not changing your  
5 system of setting your thresholds based on  
6 what the DEA's doing, right?  
7 MS. HENN: Objection.  
8 QUESTIONS BY MR. RAFFERTY:  
9 Q. That's what you're telling your  
10 customers?  
11 MS. HENN: Objection to form.  
12 THE WITNESS: That the quota is  
13 not changing our thresholds.  
14 (McKesson-Hartle Exhibit 60  
15 marked for identification.)  
16 QUESTIONS BY MR. RAFFERTY:  
17 Q. Well, let's look at -- so  
18 business as usual from a threshold  
19 standpoint.  
20 Let's look at 1.145.  
21 Business -- let's see. Let's talk about what  
22 business as usual is for the people living in  
23 the state of Ohio at this time.  
24 Part of your job in terms of  
25 monitoring what's going on in the country in

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1 terms of the opioids that you're selling is  
 2 you're supposed to be monitoring the press  
 3 articles, things that's going on, because  
 4 those things can actually trigger suspicious  
 5 order investigations, can't they?  
 6 MS. HENN: Objection to form.  
 7 THE WITNESS: They can trigger  
 8 due diligence.  
 9 QUESTIONS BY MR. RAFFERTY:  
 10 Q. Trigger due diligence into  
 11 investigating whether there's suspicious  
 12 orders, right?  
 13 MS. HENN: Objection to form.  
 14 THE WITNESS: Investigating a  
 15 customer.  
 16 QUESTIONS BY MR. RAFFERTY:  
 17 Q. Investigating a customer.  
 18 Okay. Well, while you're  
 19 comforting your customer, I want to show --  
 20 that it's business as usual from a threshold  
 21 perspective in January of 2017, during that  
 22 time period, are you aware of what's going on  
 23 in the state of Ohio in terms of the numbers  
 24 of deaths associated with opioids?  
 25 A. I'm aware of the trends. I

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1 don't have the specific numbers.  
 2 Q. Well, let me show you what  
 3 we're going to mark as Exhibit 60, which is  
 4 P1.1453.  
 5 So here, if you look at the  
 6 date at the top, it's March 2017.  
 7 You see that?  
 8 A. I do.  
 9 Q. Three months after -- roughly  
 10 three months after your e-mail, correct, of  
 11 January 2017?  
 12 A. Three months after.  
 13 Q. So here's what the headline is.  
 14 Have you ever looked at this article before?  
 15 You ever seen this?  
 16 A. I don't recognize this one.  
 17 Q. It says -- the headline is, or  
 18 the title of it is, "Too Many Bodies in Ohio  
 19 Morgue, So Coroner Gets Death Trailer."  
 20 Have you ever heard that phrase  
 21 "death trailer"?  
 22 A. I have not.  
 23 Q. Do you know that Ohio, the  
 24 State of Ohio, had to go out and buy a death  
 25 trailer because of the number of opioid

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1 deaths that were occurring in that state back  
 2 when you were telling your customers it's  
 3 business as usual?  
 4 MS. HENN: Objection to form.  
 5 THE WITNESS: I did not know of  
 6 a death trailer.  
 7 QUESTIONS BY MR. RAFFERTY:  
 8 Q. Okay. Well, let's look and see  
 9 what it says.  
 10 It says, "It's moot testimony  
 11 to the opioid addiction plague that has been  
 12 ravaging Ohio, a 20-foot-long air-conditioned  
 13 trailer with room for 18 bodies."  
 14 Do you see that?  
 15 A. I do see that.  
 16 Q. "The Stark County coroner in  
 17 Canton had a cold storage mass casualty  
 18 trailer trucked in on Saturday because the  
 19 morgue was overflowing with bodies, nearly  
 20 half of the victims from drug overdoses."  
 21 Do you see that?  
 22 A. I do.  
 23 Q. Okay. If you turn to .3, this  
 24 is a picture from inside the death trailer.  
 25 Do you see that?

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1 A. I do.  
 2 Q. And then if you go to .4, and  
 3 if you look, it says specifically, "Coroners  
 4 in the counties of Ashtabula and Cuyahoga,"  
 5 which is where Cleveland is located, "have  
 6 had to deploy the trailers when their morgues  
 7 became too jammed, he said. The medical  
 8 examiner in Summit County," where Akron is  
 9 located, "asked the Ohio department to send  
 10 one over last summer when there was a spike  
 11 in drug overdoses, the Akron Beacon Journal  
 12 reported. Just this year alone, there have  
 13 been 90 overdose deaths in Stark County and  
 14 109 in Cuyahoga County, according to the  
 15 Akron newspaper."  
 16 Did I read that correctly?  
 17 A. You did.  
 18 Q. "But the situation in the rust  
 19 belt states like Ohio, where the drug  
 20 overdose rate is 2015, was most -- the most  
 21 recent federal figures available was 29.9 per  
 22 100,000 people is especially dire."  
 23 Is that what that says?  
 24 A. It does say that.  
 25 Q. Now, this is in March of 2017.

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1 And you're saying even in your position now,  
2 which is, if I wrote it down correctly,  
3 senior vice -- or vice -- yeah, senior vice  
4 president, right? Are you vice president or  
5 senior vice president?  
6 A. Right now?  
7 Q. Yeah.  
8 A. Vice president.  
9 Q. Vice president of regulatory  
10 affairs and compliance; is that right?  
11 A. Yes.  
12 Q. Okay. Even in your role as  
13 that, and the fact that you've been the  
14 director of -- even though you've been the  
15 director, the senior director, of regulatory  
16 affairs for retail national accounts, you  
17 never saw any of that? You never saw that  
18 article or heard about Ohio having to hire  
19 mobile -- having to hire or buy mobile  
20 morgues or death trailers?  
21 MS. HENN: Objection to form.  
22 THE WITNESS: I've not seen  
23 this specific article. I've certainly  
24 read and been aware and read similar  
25 articles. Never heard of the term

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1 "death trailer" that I can recall.  
2 (McKesson-Hartle Exhibit 48  
3 marked for identification.)  
4 QUESTIONS BY MR. RAFFERTY:  
5 Q. If we look now at  
6 Exhibit 1153 -- you got it? I already marked  
7 these -- which is -- I'm sorry, is marked  
8 Exhibit 48.  
9 And if you turn to page -- this  
10 is the -- just so the -- we identify the  
11 document, it's P1.1153, and it is from the  
12 DEA, "Effective controls against diversion."  
13 Have you seen this before?  
14 You know what? I withdraw the  
15 question. Let's just go to .44.  
16 A. I'd still like to take a quick  
17 peek. I want to see...  
18 Q. Okay. Go to .44, please.  
19 You there?  
20 A. Almost. .44. Okay.  
21 Q. Remember we talked earlier  
22 about one of your responsibilities the DEA  
23 expected you -- one of the things that the  
24 DEA expected of McKesson as a distributor was  
25 to know your customers?

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1 You're familiar with that,  
2 right?  
3 A. I am.  
4 Q. And here, one of the things it  
5 says the DEA is telling you is some factors  
6 to consider. "What do the news reports say  
7 about the state or geographical area where  
8 the controlled substances being sold to,"  
9 correct?  
10 A. Correct.  
11 Q. Okay. So that's part of what  
12 you're supposed to be doing; you're supposed  
13 to be paying attention to the news reports,  
14 right?  
15 MS. HENN: Objection to form.  
16 THE WITNESS: We do pay  
17 attention --  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. Okay.  
20 A. -- attention to them, yes.  
21 Q. You do?  
22 A. Yes.  
23 Q. How do you pay attention to  
24 them?  
25 A. I have different feeds and

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1 monitor news and read news all the time.  
2 Q. Okay. So just you, like when  
3 you're watching CNN in the morning, or do you  
4 have actually a system set up where  
5 opioid-related articles that come up as a  
6 result of -- in states that you're selling to  
7 are brought to you?  
8 MS. HENN: Objection to form.  
9 THE WITNESS: I personally have  
10 different predesigned searches on my  
11 own. Our teams across the country  
12 review reports as well, so we review  
13 different news articles.  
14 QUESTIONS BY MR. RAFFERTY:  
15 Q. So there's not a particular  
16 system or policy set up at McKesson to review  
17 various -- just each individual is supposed  
18 to kind of monitor it, right?  
19 MS. HENN: Objection to form.  
20 THE WITNESS: Generally.  
21 QUESTIONS BY MR. RAFFERTY:  
22 Q. Okay. So what this says is  
23 you're supposed to watch what the news  
24 reports are saying.  
25 And then the second bullet



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1 point is, "Is there a problem with controlled  
2 substances in this particular state? If so,  
3 what is the problem, what are the controlled  
4 substances involved," right?  
5 A. That's what it says.  
6 Q. Okay. Having to hire a -- or  
7 having to buy a death trailer would probably  
8 indicate that there's a problem with  
9 controlled substances in that state, right?  
10 MS. HENN: Objection to form.  
11 THE WITNESS: Right. You  
12 shouldn't have to do that in a -- in  
13 a --  
14 QUESTIONS BY MR. RAFFERTY:  
15 Q. No.  
16 A. No.  
17 Q. And it's in the news reports,  
18 something you're supposed to be watching out  
19 for, right?  
20 A. It's in the news reports.  
21 Q. Okay. So when you're telling  
22 people it's business as usual at McKesson in  
23 regards to thresholds, in terms of lowering  
24 thresholds, comforting them, the business as  
25 usual in the state of Ohio for the morgues is

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1 they're trying to find a place to store the  
2 bodies, right?  
3 MS. HENN: Objection to form.  
4 THE WITNESS: My context for  
5 business as usual is that's me  
6 communicating with somebody  
7 internally, and again, as we talked  
8 about, means that we're not changing  
9 thresholds based on purely that quota.  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. Well, you're communicating  
12 internally to somebody to convey that to one  
13 of your big customers: Don't worry, it's  
14 business as usual in regards to thresholds.  
15 That's what you're doing,  
16 right?  
17 MS. HENN: Objection to form.  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. That's what it says?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: Conveying that we  
22 have processes to request increases  
23 and how we manage our thresholds.  
24 MS. HENN: Pardon me, Counsel.  
25 My realtime -- oh, and the phone cut

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1 out.  
2 MR. RAFFERTY: Okay. Well,  
3 let's take five minutes and just get  
4 it on.  
5 MS. HENN: Let's go off the  
6 record for a second.  
7 VIDEOGRAPHER: The time is  
8 1:30 p.m., and we're going off the  
9 record.  
10 (Off the record at 1:29 p.m.)  
11 VIDEOGRAPHER: The time is  
12 1:32 p.m., and we're back on the  
13 record.  
14 QUESTIONS BY MR. RAFFERTY:  
15 Q. All right. Let's -- all right.  
16 Let's look at what else is going on.  
17 During 2014, there were some --  
18 you're familiar with HDMA. We talked a  
19 little bit about that earlier, right?  
20 A. I am.  
21 Q. That's your trade organization?  
22 A. Right. Correct.  
23 (McKesson-Hartle Exhibit 61  
24 marked for identification.)  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. Okay. And if we look at 1490,  
3 which will be Exhibit 61 to the depo.  
4 So this is right around the  
5 time you're starting at McKesson, right, May  
6 2014?  
7 A. In 2014.  
8 Q. Okay. "SGAC annual meeting."  
9 Do you see that?  
10 A. I see that.  
11 Q. And what is that; do you know?  
12 A. I don't know.  
13 Q. It says "HDMA" down at the  
14 bottom, Healthcare Distribution Management  
15 Association. You guys are on the -- you  
16 guys. You're -- McKesson is on the executive  
17 committee of that, right?  
18 A. Correct.  
19 Q. Okay. And it says, if you look  
20 at point 2, "HDMA state government affairs  
21 capabilities, prepared for the HDMA executive  
22 committee expense working group."  
23 Do you see that?  
24 A. I do see that.  
25 Q. And one of the things, if you

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1 turn over a couple of pages to .4, one of the  
2 things it says is, "Challenges on the  
3 horizon: State efforts to address, reduce,  
4 prevent prescription abuse and diversion."  
5 Do you see that?  
6 A. I see that.  
7 Q. Okay. So your trade  
8 organization that you're on the executive  
9 committee sees states' efforts to reduce and  
10 prevent diversion as a challenge to your  
11 business, right?  
12 MS. HENN: Objection to form.  
13 QUESTIONS BY MR. RAFFERTY:  
14 Q. Not as an opportunity but as a  
15 challenge?  
16 MS. HENN: Same objection.  
17 THE WITNESS: I don't know what  
18 the speaking points are, but it's on  
19 the challenge slide.  
20 QUESTIONS BY MR. RAFFERTY:  
21 Q. Okay. Well, you should welcome  
22 that, right? McKesson should welcome the  
23 involvement of any organization, government,  
24 private or otherwise, to help reduce  
25 diversion, right?

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1 MS. HENN: Objection to form.  
2 THE WITNESS: We do.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. Shouldn't be looked at as a  
5 challenge or an obstacle, certainly, should  
6 it?  
7 A. There can be challenges with,  
8 you know, changing of systems and things that  
9 have to be done. I'm just speculating that  
10 could be an example.  
11 Q. Okay. Well, let's see what --  
12 14.55, please. This is already 47.  
13 MS. HENN: Counsel, one note.  
14 This document was labeled Exhibit 48  
15 on the actual document, which I'm not  
16 sure is right.  
17 MR. RAFFERTY: You know, I  
18 know, because I went to mark it and  
19 then I set it aside, so...  
20 MS. HENN: At a break or  
21 something. Okay.  
22 MR. RAFFERTY: All right. So  
23 this is already Exhibit 47 that I'm  
24 looking at now.  
25 MS. HENN: Okay.

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1 MR. RAFFERTY: Is it 47? No,  
2 no, no. It's already -- no. No. I  
3 was saying it's previously been  
4 marked. It's your presentation notes.  
5 THE WITNESS: Oh.  
6 MS. HENN: Oh, I see what  
7 you're saying.  
8 MR. RAFFERTY: Yeah.  
9 MS. HENN: Pardon me.  
10 MR. RAFFERTY: We had just  
11 skipped the number 48 because I took  
12 it out of order.  
13 MS. HENN: Understood.  
14 QUESTIONS BY MR. RAFFERTY:  
15 Q. So if we look at -- if we look  
16 at slide 7, "Abuse trends, overdose deaths."  
17 Do you see that, .7?  
18 A. I see that.  
19 Q. "This next slide shows a map  
20 related to overdose deaths by state in 2010  
21 that was shared at a meeting with ONDCP, and  
22 similar ones can be found in different  
23 diversion materials. The reason we share  
24 this is because the death rates are alarming  
25 and are getting a lot of attention in

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1 states."  
2 You agree with that, right?  
3 A. Correct.  
4 Q. The death rates were alarming,  
5 and states and state governments were  
6 starting to taking notice and are starting  
7 to -- are starting to crack down, correct?  
8 A. And get involved, yes.  
9 Q. Okay. "States are beginning to  
10 react heavily to this trend, and you can  
11 expect to see continued activity from elected  
12 officials and state Boards of Pharmacy."  
13 Right?  
14 A. Correct.  
15 Q. Okay. Now, the fact of the  
16 matter is is you did start seeing, for  
17 example, different states and state Boards of  
18 Pharmacy cracking down and trying to make  
19 sure and reduce diversion through their  
20 states, correct?  
21 MS. HENN: Objection to form.  
22 THE WITNESS: Could you ask  
23 that again?  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. Yeah.

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1 You did see that --  
2 A. Yeah.  
3 Q. -- going forward, states and  
4 state Boards of Pharmacy being much -- being  
5 proactive in trying to make sure and enforce  
6 laws to prevent diversion, right?  
7 MS. HENN: Objection to form.  
8 THE WITNESS: Yes, states were  
9 being more proactive.  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. Okay. In fact, the Ohio State  
12 Board of Pharmacy has been very critical in  
13 the past of McKesson's activities as it  
14 relates to preventing diversion, hasn't it?  
15 MS. HENN: Objection to form.  
16 THE WITNESS: I'm not aware of  
17 the specific --  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. You don't recall in 2017 the  
20 state -- the Ohio State Board of Pharmacy  
21 writing to you and telling you about why --  
22 asking why several suspicious orders were  
23 never being reported to them?  
24 MS. HENN: Objection to form.  
25 THE WITNESS: I'm not recalling

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1 the documents or the letter  
2 specifically.  
3 (McKesson-Hartle Exhibit 62  
4 marked for identification.)  
5 QUESTIONS BY MR. RAFFERTY:  
6 Q. You don't recall that.  
7 Okay. 1.1457. This will be  
8 Exhibit 62.  
9 Okay. As we look at  
10 Exhibit 62, Mr. Hartle, this is October 20,  
11 2017, and it's from the State of Ohio Board  
12 of Pharmacy.  
13 Do you see that?  
14 A. I see that.  
15 Q. And it's to McKesson  
16 Corporation. And it says,  
17 "Wholesaler/manufacturer category 3,  
18 wholesale distributor inspection, October 20,  
19 2017, written response required."  
20 That's a serious -- that's a  
21 serious thing, you would agree, right?  
22 MS. HENN: Objection to form.  
23 THE WITNESS: This is serious.  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. This is serious, yeah.

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1 So if you turn to page 4, it  
2 says, "Observation." Now, this is nine  
3 months after the 2017 settlement, right,  
4 which was in October of 2017, so nine months  
5 later, right?  
6 A. Yeah, later in the year.  
7 Q. Okay. "Observation: A review  
8 of wholesale sale data reported to the Ohio  
9 State Board of Pharmacy for drugs containing  
10 hydrocodone 10 milligrams, oxycodone  
11 10 milligrams and oxycodone 30 milligrams  
12 indicated that many sales appeared to be of  
13 unusual size, unusual frequency, or that  
14 deviate substantially from established buying  
15 patterns but were not reported to the Board  
16 of Pharmacy as suspicious orders."  
17 Do you see that?  
18 A. I see that.  
19 Q. "Specifically, we observed  
20 spikes in sales for specific months and a  
21 high volume of sales that continue to  
22 increase over time to specific pharmacies.  
23 See referenced sales in the attached  
24 spreadsheet."  
25 Do you see that?

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1 A. I see that.  
2 Q. So if we look over on the last  
3 page, one of those at the top is the Lewis  
4 Drugstore, correct?  
5 A. Correct.  
6 Q. Jackson, oxycodone 10, high  
7 monthly average sales at 12,500.  
8 Do you see that?  
9 A. I see that.  
10 Q. Did you investigate, for  
11 example, what the population was in Jackson?  
12 MS. HENN: Objection to form.  
13 THE WITNESS: I'm not aware  
14 of -- I don't recall anything about  
15 this document or this list.  
16 QUESTIONS BY MR. RAFFERTY:  
17 Q. So you've never seen this  
18 before?  
19 A. I don't recall it. I can't say  
20 I've never seen it.  
21 (McKesson-Hartle Exhibit 63  
22 marked for identification.)  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. Let me show you 1456.  
25 Now this was, what, nine months

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1 ago, right? Roughly? It's October 2017.  
2 What is that, nine, ten months ago?  
3 A. Right.  
4 Q. And I'll hand you what's been  
5 marked as 63.  
6 So here we are on October 20,  
7 2017, Nate Hartle. That's an e-mail from  
8 you, right?  
9 A. Correct.  
10 Q. And if we go all the way down  
11 to the bottom, this is forwarding the  
12 government contact OBOP WCH.  
13 Do you see that?  
14 A. Right.  
15 Q. All right. And up at the  
16 top -- or in the middle, I'm sorry, it says  
17 there are a few Rite Aids on here.  
18 Do you see that?  
19 A. I see that.  
20 Q. BT -- BR 3536705, for example?  
21 A. Right. Three DEA registration  
22 numbers and three Rite Aid store numbers.  
23 Q. Right.  
24 And so if we look at those,  
25 you'll see that those are listed on the

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1 spreadsheet, right?  
2 A. Correct.  
3 Q. So -- and it says here, "There  
4 are a few Rite Aids on here" -- going to list  
5 them -- "we might need to discuss this one,  
6 as the Ohio BOP isn't just asking for records  
7 but is also requesting an explanation for why  
8 certain orders at these locations were not  
9 reported as suspicious."  
10 And then up at the top you  
11 respond, saying, "Here are the workbooks,  
12 just looking at January '16 through September  
13 '17 so we have them. I wouldn't necessarily  
14 start to work on any of this yet."  
15 So you received this report,  
16 correct?  
17 A. Now I -- yeah, this is part of  
18 our process when we -- when we do  
19 event-triggered-type reviews.  
20 Q. Okay. So, in fact, you  
21 received -- so you don't remember it.  
22 Were so many Board of  
23 Pharmacies from throughout the country  
24 contacting you because of increase -- or for  
25 failing to report suspicious orders that you

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1 just forgot this one?  
2 MS. HENN: Objection to form.  
3 THE WITNESS: We receive  
4 different ones. I just don't happen  
5 to recall this specific one.  
6 QUESTIONS BY MR. RAFFERTY:  
7 Q. Okay. And in fact, this  
8 specific one in 2017, this is -- I mean, you  
9 have been -- as we've discussed in 2008 and  
10 in 2017, throughout that entire time period  
11 there have been multiple, multiple times that  
12 you have been investigated by federal and  
13 state governments for failing to report  
14 suspicious orders.  
15 You would agree with that,  
16 right?  
17 MS. HENN: Objection to form.  
18 THE WITNESS: Two different  
19 settlements.  
20 QUESTIONS BY MR. RAFFERTY:  
21 Q. Right.  
22 But also state Boards of  
23 Pharmacies, right?  
24 MS. HENN: Objection to form.  
25 THE WITNESS: What's the

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1 question again?  
2 QUESTIONS BY MR. RAFFERTY:  
3 Q. You've been investigated by  
4 state Boards of Pharmacy for the same conduct  
5 as well?  
6 MS. HENN: Objection to form.  
7 QUESTIONS BY MR. RAFFERTY:  
8 Q. For failing to report  
9 suspicious orders?  
10 MS. HENN: Objection to form.  
11 THE WITNESS: Some.  
12 (McKesson-Hartle Exhibit 64  
13 marked for identification.)  
14 QUESTIONS BY MR. RAFFERTY:  
15 Q. Okay. In fact, let's look  
16 at -- sorry about that.  
17 Let me direct you now to 1463,  
18 because I think if we -- we looked. We were  
19 talking about the Lewis Drugstore in Jackson,  
20 high monthly average sales of 12,500, right?  
21 MS. HENN: Objection to form.  
22 QUESTIONS BY MR. RAFFERTY:  
23 Q. All right. Marking Exhibit 64.  
24 This is marked P1.1463. And if  
25 you'll see, this is some demographics. And



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1 what it says here is there are 6,252 people  
2 as a population for Jackson, Ohio.  
3 Do you see that?  
4 MS. HENN: Objection to form.  
5 QUESTIONS BY MR. RAFFERTY:  
6 Q. I'm sorry, it's on page 3.  
7 Sorry. .3, population.  
8 A. Down here, okay, I see it.  
9 Q. 6,252, right?  
10 A. I see that.  
11 Q. Okay. And that means -- so  
12 that means, going back now to the exhibit  
13 from the Board of Pharmacy on page 5, the  
14 monthly sales were averaging 12,500 doses,  
15 right?  
16 MS. HENN: Objection to form.  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. You see that? For oxy 10?  
19 Sorry, I'll give you a minute  
20 to get there.  
21 A. 12.5, I see that.  
22 Q. Just for oxy 10, right?  
23 A. Correct.  
24 Q. So that's almost two pills for  
25 every person that lives in the City of

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1 Jackson was being shipped there monthly by  
2 McKesson, right?  
3 A. Doing that basic math, but we  
4 don't know the full context of the servicing  
5 population in the county and how many  
6 pharmacies and the like, right.  
7 Q. And we know -- well, we do know  
8 a couple of things. We know when the Board  
9 of Pharmacy flagged it as a suspicious order  
10 and, number two, we do know the number of  
11 doses that were being sent -- were being sold  
12 out of that store on average, and we do know  
13 the population, right? Those are facts we do  
14 know?  
15 MS. HENN: Objection to form.  
16 THE WITNESS: We do know those.  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. And the last fact we know is  
19 that McKesson didn't report this to the Board  
20 of Pharmacy as a suspicious order. We know  
21 that, too, right?  
22 MS. HENN: Objection to form.  
23 THE WITNESS: That's what  
24 they're stating in the report.  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. Okay. And as I said before,  
3 this isn't -- there have been -- there was in  
4 2008 a settlement that we talked a little bit  
5 about earlier involving the failure for -- a  
6 failure of McKesson to report suspicious  
7 orders of its narcotics, right?  
8 MS. HENN: Objection to form.  
9 THE WITNESS: I apologize. Can  
10 you say that one again?  
11 QUESTIONS BY MR. RAFFERTY:  
12 Q. 2008 --  
13 A. 2008.  
14 Q. -- there was a settlement  
15 involving McKesson with allegations that it  
16 failed to report suspicious orders, right?  
17 A. Allegations that it failed to  
18 report, that's correct.  
19 (McKesson-Hartle Exhibit 65  
20 marked for identification.)  
21 QUESTIONS BY MR. RAFFERTY:  
22 Q. Okay. If we could look now at  
23 1.889, which will be Exhibit 65.  
24 This is a copy of the  
25 settlement and release agreement and

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1 administrative memorandum of agreement from  
2 the 2008 settlement.  
3 Do you see that?  
4 A. I do see that.  
5 Q. Okay. Now, if we turn to -- I  
6 just want to make a list here.  
7 Now, this resulted in the  
8 \$13.25 million fine, right?  
9 A. Correct.  
10 MR. RAFFERTY: Okay. So if I  
11 could have a piece of paper, Carol.  
12 QUESTIONS BY MR. RAFFERTY:  
13 Q. So if we look over on  
14 page .2 -- not .2 -- on page -- Bates  
15 stamp -- you see the Bates number down at the  
16 bottom?  
17 A. Yeah.  
18 Q. 1060 is the page we need to go  
19 to. Sorry, mine is not numbered.  
20 All right. So this 2008  
21 involved -- and it says, "Covered Conduct."  
22 Covered conduct involved in this, in the --  
23 involved, A, within the District of Maryland,  
24 and it involved McKesson-Landover.  
25 Do you see that?



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1 A. Yes.  
2 Q. So that's Landover, Maryland.  
3 And in Landover, Maryland, they  
4 allege that there was approximately 3 million  
5 dosage units of hydrocodone sold to New Care  
6 Pharmacy in Baltimore, and failed to report  
7 these as suspicious orders to the DEA when  
8 discovered, right?  
9 MS. HENN: Objection to form.  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. That's what it says?  
12 A. That's what it says.  
13 Q. All right. And then it goes on  
14 and lists some other violations and failure  
15 to report suspicious orders in that same  
16 McKesson-Landover distribution center, right?  
17 MS. HENN: Objection to form.  
18 THE WITNESS: Right, there's  
19 others listed.  
20 QUESTIONS BY MR. RAFFERTY:  
21 Q. Okay. And then second, letter  
22 B down there is, "Within the middle district  
23 of Florida, in October 2005,  
24 McKesson-Lakeland sold approximately  
25 2.1 million dosage units of hydrocodone to

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1 seven pharmacies in the Tampa area and failed  
2 to report these as suspicious orders."  
3 Right?  
4 MS. HENN: Objection to form.  
5 THE WITNESS: That's what it  
6 says.  
7 QUESTIONS BY MR. RAFFERTY:  
8 Q. Okay. C is, "From February to  
9 September 2007, McKesson-Conroe sold  
10 approximately 2 million dosage units of  
11 hydrocodone."  
12 That's Conroe, Texas, right?  
13 MS. HENN: Objection to form.  
14 QUESTIONS BY MR. RAFFERTY:  
15 Q. It says "within the Southern  
16 District of Texas"?  
17 MS. HENN: Objection to form.  
18 THE WITNESS: Correct.  
19 QUESTIONS BY MR. RAFFERTY:  
20 Q. And then turning the page:  
21 "Within the District of Colorado, from  
22 September 2005 through November 2007,  
23 McKesson-Aurora sold large quantities of  
24 hydrocodone to three Colorado pharmacies and  
25 failed to report these as suspicious orders."

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1 That's what it says, correct?  
2 A. That's what it says.  
3 Q. F -- or I'm sorry, E. "Within  
4 the District of Utah, from January 2005  
5 through October 2007, McKesson-Salt Lake City  
6 sold approximately 824,000 dosage units of  
7 hydrocodone, oxycodone and fentanyl and  
8 methadone to the Blackfeet Clinic in  
9 Browning, Montana, and failed to report these  
10 sales as suspicious orders."  
11 Is that right?  
12 A. That's what it says.  
13 Q. Okay. "Within the Eastern  
14 District of California, from October 2007  
15 through June 2007, McKesson-West Sacramento  
16 suffered theft and significant loss of  
17 controlled substances on 28 separate  
18 occasions and failed to timely submit  
19 required theft and loss reports to the DEA."  
20 Do you see that?  
21 A. That's what it says as well.  
22 Q. And if you turn to page --  
23 Bates number ending 1062, so a couple pages  
24 over, "Terms and Conditions." And it lists  
25 out the way the 13.25 million got calculated,

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1 right?  
2 A. It does.  
3 Q. Okay. It goes through all  
4 those.  
5 Now, as a result of this 2008  
6 settlement, McKesson agreed to do certain  
7 things, didn't they, and improve and to start  
8 reporting suspicious orders to the  
9 headquarters of the DEA, right?  
10 MS. HENN: Objection to form.  
11 THE WITNESS: They did.  
12 QUESTIONS BY MR. RAFFERTY:  
13 Q. Okay. In fact, it also says,  
14 "McKesson represents that it's taking -- it  
15 has taken good faith actions to detect and  
16 prevent diversion, including agreeing to  
17 implement the policies and procedures that  
18 are subject of an administrative settlement  
19 agreement between it and DEA dated May 2,  
20 2008."  
21 And then if you turn to the  
22 first page, that discusses some of the items  
23 that they have discussed, and in particular  
24 if you turn to Bates number page ending 1050.  
25 And it goes on and says,

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1 "Obligations" -- under terms and conditions.  
2 "Obligations of McKesson. McKesson agrees to  
3 maintain a compliance program designed to  
4 detect and prevent diversion of controlled  
5 substances as required under the CSA and  
6 applicable DEA regulations."  
7 Do you see that?  
8 A. I see that.  
9 Q. "This program shall include  
10 procedures to review orders for controlled  
11 substances. Orders that exceed established  
12 thresholds and criteria will be reviewed by a  
13 McKesson employee trained to detect  
14 suspicious orders."  
15 Did I read that correctly?  
16 A. Yes.  
17 Q. "Such orders should not be  
18 filled" -- I'm sorry, I missed a part  
19 there -- "will be reviewed by a McKesson  
20 employee trained to detect suspicious orders  
21 for the purpose of determining whether, one,  
22 such orders should be not filled and reported  
23 to the DEA, or based on a detailed review,  
24 the order is for legitimate purposes and the  
25 controlled substances are not likely to be

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1 diverted into other than legitimate medical,  
2 scientific and industrial channels."  
3 Do you see that?  
4 A. Yep. That's what it says.  
5 Q. "Orders identified as  
6 suspicious will be reported to the DEA as  
7 discussed in Subsection 2."  
8 And then it says, "This  
9 compliance program shall apply to all current  
10 and future McKesson distribution centers."  
11 You see that?  
12 A. I do.  
13 Q. Then what this -- what they're  
14 referring to there and what you-all did after  
15 this was implement that 2008 CSMP, right?  
16 A. Correct.  
17 MS. HENN: Objection to form.  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. And that does apply to all  
20 current and future McKesson distribution  
21 centers, true?  
22 MS. HENN: Objection to form.  
23 THE WITNESS: It does.  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. Okay. And then it goes on to

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1 talk about "the obligations undertaken in  
2 this paragraph do not fulfill the totality of  
3 its obligations to maintain effective  
4 controls against diversion."  
5 Do you see that?  
6 A. I see that.  
7 Q. Okay. So as a result of the  
8 2008 settlement agreement, not only did you  
9 pay a fine, but you also agreed to start  
10 reporting -- have a system in place and  
11 report suspicious orders, right?  
12 MS. HENN: Objection to form.  
13 THE WITNESS: Correct, one that  
14 would be mutually agreed upon with DEA  
15 in terms of format.  
16 QUESTIONS BY MR. RAFFERTY:  
17 Q. Okay. But in fact, you-all  
18 didn't do that, did you, after 2008?  
19 MS. HENN: Objection to form.  
20 THE WITNESS: I don't believe  
21 that's correct.  
22 (McKesson-Hartle Exhibit 66  
23 marked for identification.)  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. Okay. Well, let's take a look

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1 at 1.1432. This is Exhibit 66. This is  
2 dated November 6, 2013.  
3 And this -- okay. November 6,  
4 2013, United States Department of Justice,  
5 William J. Ihlenfeld, II, Northern District  
6 of West Virginia.  
7 Do you recall this letter?  
8 I mean, you've seen it before,  
9 right?  
10 A. I believe so, yes.  
11 Q. Okay. And if we go and we look  
12 at page 1, at the bottom paragraph it says --  
13 and this is addressed to the lawyers for  
14 McKesson, Covington & Burling, and it says,  
15 "You are no doubt aware that McKesson entered  
16 into a settlement agreement with the United  
17 States in May of 2008. The settlement  
18 agreement covered the same type of conduct  
19 described in the preceding paragraph."  
20 You see that?  
21 A. I see that.  
22 Q. Okay. Now, if we look at the  
23 preceding paragraph: "As I indicated in my  
24 October 23, 2013 letter to Ms. Seeger, the  
25 violations which would form the basis of the

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1 government's claims relate to orders filled  
2 by McKesson's former Landover, Maryland,  
3 distribution facility. The claims for  
4 penalties under the federal law, it cites,  
5 arise from McKesson's failure to design and  
6 operate a system to identify suspicious  
7 orders for controlled substances and, more  
8 importantly, the failure to report suspicious  
9 orders."  
10 Do you see that?  
11 A. I see that.  
12 Q. And then if we go back down to  
13 that paragraph -- so that's -- and it says,  
14 "The settlement in 2008 included conduct that  
15 occurred at the Landover distribution  
16 facility."  
17 That was one of them that was  
18 listed, right? I made a list of the 2008  
19 organizations.  
20 MR. RAFFERTY: If I could have  
21 the --  
22 VIDEOGRAPHER: Elmo?  
23 MR. RAFFERTY: Yeah.  
24 MS. HENN: Counsel, would you  
25 mind marking the demonstrative?

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1 MR. RAFFERTY: We'll mark it as  
2 Exhibit 67.  
3 MS. HENN: Thank you.  
4 (McKesson-Hartle Exhibit 67  
5 marked for identification.)  
6 QUESTIONS BY MR. RAFFERTY:  
7 Q. So Landover, Maryland, was one  
8 of those, right?  
9 A. Correct.  
10 Q. Okay. So if we go through --  
11 and it says next, "Between May of 2008 -- May  
12 of 2008" --  
13 MR. RAFFERTY: Back to the  
14 computer, I'm sorry.  
15 QUESTIONS BY MR. RAFFERTY:  
16 Q. -- "and November 15, 2011" --  
17 so a three-year period, over a three-year  
18 period -- "McKesson did not submit any  
19 suspicious order reports related to orders  
20 filled by the Landover facility. McKesson  
21 began submitting a very limited number of  
22 SORs to the DEA in November of 2011. It is  
23 my informed belief that these SORs were  
24 submitted due to requests for information  
25 made by the DEA and McKesson's desire to

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1 close the Landover facility and obtain a  
2 registration number for a new facility in  
3 Virginia."  
4 Do you see that?  
5 A. I see that.  
6 Q. Okay. So according to the  
7 United States Department of Justice, after  
8 you signed the 2008 memorandum and paid the  
9 \$13 million, you did not operate -- design  
10 and operate a system to identify suspicious  
11 orders, and you did not, for that three-year  
12 period they're talking about, report any  
13 suspicious orders out of the Landover  
14 facility, correct?  
15 MS. HENN: Objection to form.  
16 THE WITNESS: I don't believe  
17 that to be 100 percent accurate.  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. You don't believe that to be  
20 100 percent accurate?  
21 A. I don't.  
22 Q. Well, that's what the DOJ says  
23 right there, right?  
24 A. I know that's what they say.  
25 Q. Okay. And in fact, this was

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1 part of the material -- or part of the  
2 allegations that were settled in 2017,  
3 correct?  
4 A. Correct.  
5 Q. Okay. It also goes on, if you  
6 look at page 2: "In light of additional SORs  
7 submitted by McKesson following the  
8 January 2012 meeting, the DEA also focused on  
9 suspicious orders filled by McKesson for  
10 Family Pharmacy Services and Drug City  
11 Pharmacy. With respect to these five  
12 pharmacies, the DEA is aware of no less than  
13 318 suspicious orders" -- 318 suspicious  
14 orders -- "that McKesson failed to report at  
15 the time they were or should have been  
16 discovered."  
17 Now, you're aware, based on  
18 what we read earlier today, that you are  
19 supposed to, under the Controlled Substances  
20 Act, report suspicious orders when you  
21 discover them, right?  
22 MS. HENN: Objection to form.  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. We read that earlier today?  
25 MS. HENN: Objection to form.

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1 THE WITNESS: In the guidance  
2 letter.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. That's right.  
5 A. Correct.  
6 Q. Okay. "In addition, the DEA  
7 and the US Attorney's Office have conducted  
8 an analysis of all transactions completed by  
9 the Landover distribution facility. This  
10 analysis shows that McKesson filled tens of  
11 thousands of apparently suspicious orders out  
12 of the Landover distribution facility without  
13 a single suspicious order report being  
14 submitted to the DEA."  
15 Do you see that?  
16 A. I see that.  
17 Q. Tens of thousands. Does that  
18 strike you as -- that's a lot of suspicious  
19 orders, isn't it, Mr. Hartle?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: It's a large  
22 number, sure.  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. Yeah.  
25 "Furthermore, the United States

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1 Attorney's Office became aware of dozens, if  
2 not hundreds, of suspicious orders being  
3 filled by McKesson for a small, family-owned  
4 pharmacy in Grant County, West Virginia. The  
5 West Virginia pharmacy in question is Judy's  
6 Drugstore. No suspicious order reports for  
7 sales to Judy's Drugstore were ever provided  
8 to the DEA."  
9 Do you see that?  
10 A. I see that.  
11 Q. So that's November of 2013, and  
12 you were then contacted after that in March  
13 of 2014.  
14 (McKesson-Hartle Exhibit 68  
15 marked for identification.)  
16 QUESTIONS BY MR. RAFFERTY:  
17 Q. This is another letter from the  
18 US Department of Justice, US Attorney,  
19 William Ihlenfeld, once again with conduct  
20 pertaining to that Landover facility,  
21 correct?  
22 Well, let's -- I'll direct you  
23 to it. If you go over to .4. And down below  
24 it says, "By comparison, McKesson sold  
25 805,000 dosage units of oxycodone to L&M in

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1 2011. In 2009 and 2010, McKesson sales and  
2 regulatory compliance personnel relied on  
3 claims of increased prescribing by Drs. Lee  
4 and Wade and a nurse practitioner named Brown  
5 to justify the regular and substantial  
6 increases of L&M's thresholds."  
7 So the thresholds were being  
8 increased, just like we were talking about  
9 earlier, right?  
10 MS. HENN: Objection to form.  
11 QUESTIONS BY MR. RAFFERTY:  
12 Q. According to this?  
13 A. That's what it says in this  
14 document.  
15 Q. Okay. "Apparently McKesson's  
16 personnel weren't paying close attention to  
17 what was going on at L&M. Dr. Lee was  
18 disciplined by the Commonwealth of Virginia  
19 in March of 2010 for continuously prescribing  
20 controlled substances to patients without  
21 establishing or documenting a treatment plan  
22 and without properly monitoring the patients.  
23 "In July of 2010, Dr. Wade  
24 surrendered his DEA registration for cause.  
25 Wade was arrested in 2012 and pled guilty to

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1 illegal distribution of controlled  
2 substances. He is currently serving  
3 70 months in prison.  
4 "In January 2012, Brown was  
5 arrested by the FBI." This is the nurse  
6 practitioner. "In January 2012 Brown was  
7 arrested by the FBI and subsequently  
8 surrendered his DEA registration for cause.  
9 It should also be noted that  
10 McKesson-Landover personnel repeatedly  
11 misidentified Brown as a physician in  
12 documents that were placed in the CSMP file."  
13 That's the kind of thing that  
14 you should find out if you're exercising due  
15 diligence in investigating a threshold  
16 increase, isn't it, Mr. Hartle?  
17 MS. HENN: Objection to form.  
18 THE WITNESS: It's an important  
19 piece of information.  
20 QUESTIONS BY MR. RAFFERTY:  
21 Q. An important -- it's a critical  
22 piece of information, isn't it?  
23 A. Critical.  
24 Q. It's a piece of information  
25 that should stop the order from being filled,



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1 right?

2 MS. HENN: Objection to form.

3 QUESTIONS BY MR. RAFFERTY:

4 Q. If the doctors -- if the reason

5 for increasing the threshold is increased

6 prescriptions by doctors who have been put in

7 jail, surrendered their DEA registrations or

8 pled guilty, that's a pretty good tip that

9 you shouldn't be filling that order and it

10 should be a suspicious order, correct?

11 MS. HENN: Objection to form.

12 THE WITNESS: It's a suspicious

13 customer, so...

14 QUESTIONS BY MR. RAFFERTY:

15 Q. Suspicious customer.

16 Is it your understanding that

17 that's what your obligation was under the

18 Controlled Substances Act, was to report

19 suspicious customers and not suspicious

20 orders?

21 MS. HENN: Objection to form.

22 THE WITNESS: I understand our

23 obligation was to report suspicious

24 orders, but part of our program,

25 again, from what I understand mutually

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1 agreed upon with DEA, was in addition

2 to suspicious orders, suspicious

3 customers.

4 QUESTIONS BY MR. RAFFERTY:

5 Q. Where is it written down from

6 the DEA that your obligation is to report

7 suspicious customers? Where is that written

8 down?

9 MS. HENN: Objection to form.

10 THE WITNESS: I don't know if

11 it is written down anywhere. I'm just

12 saying in terms of discussions and as

13 I've learned from leaders at McKesson

14 about those discussions.

15 QUESTIONS BY MR. RAFFERTY:

16 Q. As you've been told by other

17 people at McKesson, correct?

18 A. Correct.

19 Q. You've never seen anything from

20 the DEA that ever says anything about only

21 reporting suspicious customers, right?

22 MS. HENN: Objection to form.

23 QUESTIONS BY MR. RAFFERTY:

24 Q. Correct?

25 A. I don't recall seeing that on

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1 paper from DEA.

2 Q. Yeah. In fact, you've never

3 seen anything from DEA saying anything that

4 your -- anything other than your obligation

5 under the Controlled Substances Act is to

6 report suspicious orders, correct?

7 MS. HENN: Objection to form.

8 THE WITNESS: That's what they

9 call out in their guidance, right.

10 QUESTIONS BY MR. RAFFERTY:

11 Q. Well, that's not what they just

12 call it out in their guidance. That's what's

13 called out in the federal regulations --

14 A. Right.

15 Q. -- and that's what's called in

16 the Rannazzisi letters, and that's what

17 discussed in your actual own CSMP, isn't it?

18 MS. HENN: Objection to form.

19 THE WITNESS: It is.

20 QUESTIONS BY MR. RAFFERTY:

21 Q. Yes.

22 A. I'm saying in addition to

23 suspicious orders, there's been sharing of

24 suspicious customers as well.

25 Q. And in fact, if you look at

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1 page -- that actual argument was proposed to

2 US Attorney Ihlenfeld in response to these,

3 and it is addressed in this letter, correct?

4 MS. HENN: Objection to form.

5 THE WITNESS: Could you point

6 to where that's at?

7 QUESTIONS BY MR. RAFFERTY:

8 Q. Sure. The first -- the

9 second -- the second -- the third full

10 paragraph.

11 A. On which page?

12 Q. Page 1.

13 "I cannot accept." Do you see

14 that? Third full paragraph. "I cannot

15 accept."

16 A. Why am I not finding this? Oh,

17 because I'm on page 2. Sorry.

18 Q. "I cannot accept that the CSMP

19 implemented by McKesson after the 2008

20 settlement was designed to identify

21 suspicious customers. It is my informed

22 belief that such a contention is more

23 rationalization than reality."

24 Do you see that?

25 A. I see that.



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1 Q. Okay. That's what's going on,  
2 right? That's what's going on today,  
3 rationalization, not reality?  
4 MS. HENN: Objection to form.  
5 QUESTIONS BY MR. RAFFERTY:  
6 Q. You don't have -- well, you  
7 don't have any evidence whatsoever that any  
8 DEA person ever told you that suspicious  
9 customers was what you needed to report, not  
10 suspicious orders?  
11 MS. HENN: Objection to form.  
12 QUESTIONS BY MR. RAFFERTY:  
13 Q. And if you have it, point me to  
14 it.  
15 MS. HENN: Same objection.  
16 THE WITNESS: Yeah, I don't  
17 have any of that specific evidence.  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. Okay. So once again, like  
20 earlier, you're guessing, right?  
21 MS. HENN: Objections to form.  
22 THE WITNESS: Based on  
23 information that I've heard from  
24 McKesson employees and seen in  
25 McKesson decks and about some of those

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1 discussions.  
2 QUESTIONS BY MR. RAFFERTY:  
3 Q. From people who have -- from  
4 the same employees who are being  
5 investigated. Because that's when this --  
6 this was being discussed, while you're being  
7 investigated for failing to meet your  
8 obligations under the 2008 settlement  
9 agreement and under the federal laws,  
10 including the Controlled Substance Act,  
11 right?  
12 MS. HENN: Objection to form.  
13 THE WITNESS: I understand.  
14 QUESTIONS BY MR. RAFFERTY:  
15 Q. That's what rationalization is.  
16 That's coming up with a reason, after you  
17 start -- after you get caught not  
18 implementing and not reporting suspicious  
19 orders, right?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: I don't believe  
22 that to be 100 percent true.  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. Well, let's what Mr. -- what  
25 the US Attorney says about your suspicious

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1 customer claim.  
2 "The 2008 settlement agreement  
3 does not require or implicitly suggest a CSMP  
4 focused on suspicious customers. To the  
5 contrary, the settlement agreement provides  
6 that McKesson shall inform DEA of suspicious  
7 orders."  
8 Do you see that?  
9 A. I do, and I understand that.  
10 Q. And in fact, it's all --  
11 everything that's discussed in that  
12 settlement is about suspicious orders, right?  
13 MS. HENN: Objection to form.  
14 QUESTIONS BY MR. RAFFERTY:  
15 Q. Yes?  
16 A. Agreed.  
17 Q. If you turn to the second page,  
18 "Moreover, any reasonable analysis of the  
19 2008 settlement agreement arrives at the  
20 conclusion that its aim was to enhance the  
21 Comprehensive Drug Abuse Prevention and  
22 Control Act and supporting regulatory scheme,  
23 not displace it. It would be" --  
24 What's that word?  
25 A. "Grossly."

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1 Q. -- "grossly inaccurate."  
2 "It would be grossly inaccurate  
3 to suggest the parties to the settlement  
4 agreement intended to supersede the Act and  
5 relevant regulations. McKesson was subject  
6 to the Act and regulations, generally and in  
7 particular, both before and after the  
8 settlement."  
9 Do you see that?  
10 A. I do see that.  
11 Q. Okay. Then he continues on on  
12 page 3 to discuss this allegation that it was  
13 customers that you were to be reporting, and  
14 he goes through and points out that "all  
15 versions of the CSMP PowerPoint prepared and  
16 presented by McKesson clearly indicate that  
17 the focus of the CMP {sic} was on the order,  
18 not the customer."  
19 Do you see that?  
20 A. I do see that.  
21 Q. And he, in fact, attaches your  
22 own presentations, doesn't he?  
23 MS. HENN: Objection to form.  
24 THE WITNESS: That's what it  
25 says.

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. "In fact" -- the next  
3 paragraph -- "the idea that a distributor  
4 would implement a CSMP that concentrates on  
5 suspicious customers rather than suspicious  
6 orders is contrary to the letter and spirit  
7 of those provisions of the Act and  
8 regulations aimed at curbing drug diversion."  
9 Do you see that?  
10 A. I see that.  
11 Q. "However, even if one accepts  
12 arguendo that DEA personnel tacitly accepted  
13 a CSMP focusing on suspicious customers, the  
14 available evidence indicates that McKesson  
15 was not following its own program. By its  
16 own admission, McKesson reported just 35  
17 suspicious customers between March 2008 and  
18 November 2012."  
19 That's almost a four-year  
20 period, three-and-a-half-year period, right  
21 there, right?  
22 A. I see that.  
23 Q. "According to Mr. Walker" --  
24 That's Don Walker, right, the  
25 person you described earlier?

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1 A. Correct.  
2 Q. -- "McKesson services  
3 approximately 25,000 customers daily. If one  
4 assumes that McKesson served the same 25,000  
5 customers every day from 2008 to 2012, then  
6 McKesson identified just .14 percent of its  
7 customers as suspicious. Obviously, this  
8 miniscule percentage is inflated in that  
9 McKesson did not have the same 25,000  
10 customers every day from '08 to 2012."  
11 Do you see that?  
12 A. I do.  
13 Q. Then the last paragraph, "This  
14 conclusion is reinforced by other acts or  
15 omissions. Specifically, McKesson has never  
16 reported Judy's Drugstore or a JDS order as  
17 suspicious. This is remarkable given the  
18 well-documented diversion facilitated by JDS.  
19 JDS operated a small pharmacy in a very rural  
20 West Virginia county but was ordering  
21 inexplicable quantities of Schedule II and  
22 III narcotics for an extended period. JDS's  
23 orders were being fueled by the clearly  
24 suspicious, if not alarming, prescribing  
25 patterns of a local physician, Rajan Masih.

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1 It is highly improbable that  
2 McKesson-Landover was not aware of the  
3 problem with JDS and Masih. I have concluded  
4 that McKesson did not report suspicions about  
5 JDS because the DEA had not inquired about  
6 JDS."  
7 Do you see that?  
8 A. I see that.  
9 Q. So in terms of the question  
10 about this customer, this suspicious  
11 customer, there is -- the CSMP only  
12 references -- your own internal policy only  
13 references suspicious orders, true?  
14 MS. HENN: Objection to form.  
15 THE WITNESS: I believe so,  
16 yeah.  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. Okay. The 2008 settlement you  
19 entered into and made -- and made  
20 representations to and promises to in terms  
21 of what you're going to do only references  
22 suspicious orders, not customers, true?  
23 MS. HENN: Objection to form.  
24 THE WITNESS: Correct.  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. And you can't, sitting here  
3 today, point me to one piece of paper, one  
4 note, one anything written down from the DEA  
5 ever saying that your obligation is to report  
6 suspicious customers, not orders, true?  
7 MS. HENN: Objection to form.  
8 THE WITNESS: I can't point to  
9 that. I know our obligation was to  
10 report suspicious orders.  
11 My point was, in addition, we  
12 were reporting, what I understand --  
13 this is before I -- this is before I  
14 joined -- that customers were included  
15 in that.  
16 QUESTIONS BY MR. RAFFERTY:  
17 Q. Let me --  
18 A. That was my original --  
19 Q. Let me ask the question again.  
20 You can't point me to a piece  
21 of paper anywhere from the DEA, a letter, a  
22 memo, a note, anything from the DEA,  
23 indicating that your obligation was to report  
24 suspicious customers and not orders, true?  
25 MS. HENN: Objection to form.

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1 THE WITNESS: True.  
 2 QUESTIONS BY MR. RAFFERTY:  
 3 Q. It's a yes or no.  
 4 A. True.  
 5 Q. True. Thank you.  
 6 MS. HENN: Counsel, is this a  
 7 good time for a five-minute?  
 8 MR. RAFFERTY: Yeah.  
 9 MS. HENN: Thank you very much.  
 10 VIDEOGRAPHER: The time is  
 11 2:18 p.m., and we're going off the  
 12 record.  
 13 (Off the record at 2:18 p.m.)  
 14 VIDEOGRAPHER: The time is  
 15 2:28 p.m., and we're back on the  
 16 record.  
 17 QUESTIONS BY MR. RAFFERTY:  
 18 Q. All right. Around this same  
 19 time period, Mr. Hartle, that we were  
 20 discussing that letter from the US Attorney  
 21 from West Virginia, there was also other  
 22 US Attorneys involved in investigating  
 23 McKesson's failure to report suspicious  
 24 orders, true?  
 25 A. Yes.

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1 Q. In fact, one of those was John  
 2 Walsh from the District of Colorado, and that  
 3 letter is August 13, 2004 -- August 13, 2014,  
 4 correct? It's Exhibit 54.  
 5 A. Is it August 13, 2014?  
 6 Q. Yes, sir.  
 7 A. Correct.  
 8 Q. All right. If we turn to  
 9 page 2 of that -- well, go back, just so I  
 10 can orient.  
 11 Okay. So you see up there,  
 12 August 13, 2014. And it's "Re: possible  
 13 civil action against McKesson Corporation for  
 14 violations of the Controlled Substances Act,"  
 15 correct?  
 16 A. Correct.  
 17 Q. Okay. So if we go to page 2,  
 18 it says here in the second full paragraph at  
 19 the beginning, "The regulatory requirement to  
 20 report suspicious orders is not meaningless  
 21 box-checking."  
 22 Do you see that?  
 23 A. I see that.  
 24 Q. And you agree with that, right?  
 25 MS. HENN: Objection to form.

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1 THE WITNESS: It's not a  
 2 meaningless process, no.  
 3 QUESTIONS BY MR. RAFFERTY:  
 4 Q. No.  
 5 In fact, it requires, as we've  
 6 seen in the regulations, due diligence. It  
 7 requires proactive and being vigilant, right?  
 8 MS. HENN: Objection to form.  
 9 THE WITNESS: That's -- again,  
 10 it's not meaningless. It requires  
 11 more than just a box-checking.  
 12 QUESTIONS BY MR. RAFFERTY:  
 13 Q. But you agreed with me earlier,  
 14 though, you should be vigilant, you should be  
 15 proactive, right, and you should exercise due  
 16 diligence?  
 17 A. In our due diligence.  
 18 MS. HENN: Objection to form.  
 19 THE WITNESS: Excuse me.  
 20 QUESTIONS BY MR. RAFFERTY:  
 21 Q. And then it goes on and says,  
 22 "Suspicious order reporting serves concrete  
 23 public safety goals."  
 24 Do you see that?  
 25 A. I see that.

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1 Q. "Distributors are on the front  
 2 lines and thus in a unique position to  
 3 promptly advise the DEA when they receive an  
 4 order that is unusual, deviates from a normal  
 5 patterns or is otherwise suspicious or  
 6 inappropriate. If the distributor does not  
 7 alert the DEA of such orders, then the DEA  
 8 cannot take the necessary law enforcement  
 9 steps to investigate the orders and prevent  
 10 diversion. In this manner, distributors like  
 11 McKesson-Aurora play a vital role in  
 12 preventing diversion."  
 13 Do you see that?  
 14 A. I see that.  
 15 Q. And so we're clear, in the 2008  
 16 settlement there was conduct also involved in  
 17 the McKesson-Aurora facility, correct?  
 18 A. Correct.  
 19 Q. Okay. So then if we turn to  
 20 .3, page .3, I'm sorry, it says in that top  
 21 paragraph, "Instead, when McKesson-Aurora  
 22 received a suspicious order from one of its  
 23 pharmacy customers, the distribution center  
 24 manipulated its internal control systems in  
 25 various ways to avoid having to report that

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1 order."  
2 Now, what they're talking about  
3 there is manipulating the threshold change  
4 requests, aren't they?  
5 MS. HENN: Objection to form.  
6 THE WITNESS: They're talking  
7 about thresholds.  
8 QUESTIONS BY MR. RAFFERTY:  
9 Q. Okay. "The result was that  
10 readily available identifiable orders and  
11 ordering patterns that were obvious signs of  
12 diversion occurring at McKesson-Aurora  
13 customer pharmacies went unreviewed and  
14 unreported. In this manner,  
15 McKesson-Aurora's desire for increased sales  
16 drove its compliance efforts."  
17 Do you see that?  
18 A. I see that.  
19 Q. Okay. Then it goes on and  
20 says, "McKesson-Aurora's failure to report  
21 suspicious orders to the DEA has had tangible  
22 and tragic consequences."  
23 Have you reviewed this document  
24 before, Mr. Hartle?  
25 A. I have seen it.

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1 Q. Okay. When was the first time  
2 you saw this?  
3 A. The first time that I saw it?  
4 Q. Yeah.  
5 You were there in August  
6 of 2014?  
7 A. I was. It was clearly after  
8 that. I can't remember exactly when.  
9 Q. It would have been around that  
10 time period, though, right?  
11 A. A little bit later before it  
12 made its way, I think, for us to be -- to be  
13 available to see it.  
14 Q. But, I mean, they're alleging  
15 conduct involving the department that you're  
16 one of the senior officials in, correct?  
17 A. Correct.  
18 Q. So you would have gotten it?  
19 A. Correct.  
20 Q. Okay. And it says here, "The  
21 tangible and tragic consequences. At least  
22 nine overdose deaths in Colorado can be  
23 traced to purchases made at pharmacies that  
24 were purchasing unusually high quantities of  
25 oxycodone and hydrocodone from

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1 McKesson-Aurora."  
2 Do you see that?  
3 A. I do.  
4 Q. Identified nine deaths as a  
5 direct result of diversion involving  
6 pharmacies you were providing the narcotics  
7 to, right?  
8 MS. HENN: Objection to form.  
9 THE WITNESS: I see that listed  
10 in here, yes.  
11 QUESTIONS BY MR. RAFFERTY:  
12 Q. So after you got this  
13 information in 2014, did you reach out? Did  
14 you try to find who those people were? Did  
15 you try to go to the pharmacy? Did you try  
16 to reach out to anybody in Aurora that was  
17 involved in these deaths, any of their family  
18 members, to try and figure out how McKesson  
19 could not -- could do something to not let  
20 this happen again? Did you do that?  
21 MS. HENN: Objection to form.  
22 THE WITNESS: Personally, no, I  
23 did not.  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. "At least two drug trafficking

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1 organizations were operating out of  
2 McKesson-Aurora-supplied pharmacies and  
3 diverting prescription drugs for sales on the  
4 street, but McKesson-Aurora never once  
5 reported those pharmacies' blatant pattern of  
6 suspicious ordering to the DEA."  
7 Do you see that?  
8 A. I see that.  
9 Q. So nine people dead, two drug  
10 trafficking organizations running out of  
11 pharmacies that you were selling narcotics  
12 to, and no reports to the DEA, right?  
13 MS. HENN: Objection to form.  
14 THE WITNESS: Again, that's --  
15 those are the allegations, yes.  
16 QUESTIONS BY MR. RAFFERTY:  
17 Q. All after -- years after you  
18 signed an agreement with the DEA in 2008 to  
19 report suspicious orders and to stop  
20 shipments of suspicious orders, right?  
21 MS. HENN: Objection to form.  
22 THE WITNESS: After that  
23 settlement agreement, yes.  
24 QUESTIONS BY MR. RAFFERTY:  
25 Q. Uh-huh.



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1 In fact, amazingly, if you look  
2 down in 2011, not only was McKesson turning a  
3 blind eye to what was going on at the  
4 McKesson-Aurora facility but, in fact, in  
5 2011 McKesson-Aurora was recognized as the  
6 distribution center of the year and given an  
7 award.  
8 Do you see that?  
9 A. I do see that.  
10 Q. Do you think the families of  
11 those nine people who passed away feel like  
12 the Aurora -- McKesson-Aurora distribution  
13 center should be given an award?  
14 MS. HENN: Objection to form.  
15 THE WITNESS: I certainly  
16 wouldn't feel that way.  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. Now, one of the reasons --  
19 well, let's go to page 13 first.  
20 Actually, one of the reasons --  
21 one of the reasons that from 2008 until 2013  
22 suspicious orders weren't being reported to  
23 the DEA is because you didn't want anybody  
24 even using the word "suspicious" in  
25 communications, right?

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1 MS. HENN: Objection to form.  
2 THE WITNESS: Are you -- do you  
3 have a...  
4 QUESTIONS BY MR. RAFFERTY:  
5 Q. Well, it's part of the CSMP  
6 that was in place, right, was "don't use the  
7 word 'suspicious' in written communications  
8 with customers."  
9 MS. HENN: Objection to form.  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. Isn't that right?  
12 A. I can't think of a specific  
13 section, but I think that's right.  
14 Q. You can't think of the -- well,  
15 one of your jobs as the senior director of  
16 regulatory affairs of the RNAs is to know,  
17 understand and implement the controlled  
18 substance monitoring program at McKesson,  
19 right?  
20 A. Correct.  
21 Q. That is the foundation of your  
22 job, right?  
23 MS. HENN: Objection to form.  
24 THE WITNESS: It is.  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. And when you came on board and  
3 took that position over, I assume you  
4 reviewed the CSMP that was in place at the  
5 time?  
6 A. I did. I was also responsible  
7 for evolving and -- that particular segment,  
8 but I do review it.  
9 Q. Well, let's take a look at what  
10 was in place, because as we just saw, failure  
11 to prevent diversion, obviously, from a  
12 global standpoint, from the country's  
13 standpoint, has created an epidemic. But as  
14 we can see here, it affects and has -- these  
15 nine families could tell you affects very  
16 personally at a level involving families in  
17 the country, correct?  
18 MS. HENN: Objection to form.  
19 THE WITNESS: Absolutely.  
20 QUESTIONS BY MR. RAFFERTY:  
21 Q. But what is written in the CSMP  
22 and -- strike that.  
23 In fact, in -- reporting the  
24 suspicious orders, as was just discussed by  
25 the US Attorney in his letter, plays a vital

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1 role in the ability to stop diversion and  
2 stop opioid addiction and abuse; isn't that  
3 right?  
4 MS. HENN: Objection to form.  
5 THE WITNESS: Can you restate  
6 your question, please?  
7 QUESTIONS BY MR. RAFFERTY:  
8 Q. Yeah.  
9 Reporting of suspicious orders,  
10 effectively implementing and following the  
11 Controlled Substances Act requirements by the  
12 distributors, plays a vital role in  
13 preventing diversion and fighting opioid  
14 addiction and abuse in this country --  
15 MS. HENN: Objection to form.  
16 QUESTIONS BY MR. RAFFERTY:  
17 Q. -- right?  
18 A. It plays a role fighting --  
19 preventing diversion.  
20 Q. And it's something that should  
21 certainly be taken seriously by companies,  
22 especially when they're profiting and making  
23 \$104 billion a year in sales, right?  
24 MS. HENN: Objection to form.  
25 THE WITNESS: Absolutely.



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1 MR. RAFFERTY: Okay. Let's  
2 look at Plaintiff's 1.345, Corey,  
3 which has already been marked as  
4 Exhibit 51. Sorry.  
5 QUESTIONS BY MR. RAFFERTY:  
6 Q. All right. Do you see that?  
7 A. I do.  
8 Q. This is the CSMP that we talked  
9 about earlier, right?  
10 A. Correct.  
11 Q. And if you turn to page .23 --  
12 and actually, I'm sorry, if you turn to .22,  
13 just to see what section it's under, it's  
14 under Due Diligence, number 4, Due Diligence,  
15 right?  
16 A. Correct.  
17 Q. And then turn to page .23.  
18 "Customer Communications," number 1.  
19 Do you see that?  
20 A. I do.  
21 Q. "All communications regarding  
22 controlled substances are subject to subpoena  
23 and discovery."  
24 That means the DEA and the DOJ  
25 can subpoena and make sure that they get to

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1 look at what you're writing, right?  
2 A. Correct.  
3 Q. "Include in the subject line of  
4 e-mails customer name and number or account.  
5 Write information as if it were being viewed  
6 by the DEA."  
7 Do you see that?  
8 A. I do.  
9 Q. "Be complete and detailed.  
10 Remember to utilize the five Ws - who, what,  
11 when, where or why."  
12 And then here it says, "Refrain  
13 from using the word 'suspicious' in  
14 communications. Once McKesson deems an order  
15 and/or a customer suspicious, McKesson is  
16 required to act. This means all controlled  
17 substances sales to that customer must cease  
18 and the DEA must be notified."  
19 Do you see that?  
20 A. I do.  
21 Q. "Refrain from using the word  
22 'suspicious.'"  
23 That's exactly what you're  
24 supposed to be doing, is looking out pursuant  
25 to the Controlled Substances Act for

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1 suspicious orders, right?  
2 MS. HENN: Objection to form.  
3 THE WITNESS: That's part of  
4 our responsibility, yes.  
5 QUESTIONS BY MR. RAFFERTY:  
6 Q. And the reason you're telling  
7 your employees not to use the word  
8 "suspicious" is because if they use it, then  
9 there's a legal obligation to stop shipment.  
10 And if you stop shipment, you lose money,  
11 right?  
12 MS. HENN: Objection to form.  
13 THE WITNESS: Can you ask that  
14 question again or rephrase it, please?  
15 QUESTIONS BY MR. RAFFERTY:  
16 Q. Yeah.  
17 What it says here is -- what  
18 you say is, "Don't use the word  
19 'suspicious.'" "Refrain from using the word  
20 'suspicious' in communications."  
21 And then there's a sub-bullet  
22 which is explaining why, right?  
23 MS. HENN: Objection to form.  
24 THE WITNESS: There is a  
25 sub-bullet, yes.

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. "Once McKesson deems an order  
3 and/or customer suspicious, McKesson is  
4 required to act."  
5 Right? You see that?  
6 A. I do see that.  
7 Q. "This means all controlled  
8 substances sales to that customer must cease  
9 and the DEA must be notified."  
10 So what you're telling your  
11 employees to do is not use the word  
12 "suspicious" because if you do, we're not  
13 going to be able -- we're going to be forced  
14 to act and we're going to have to stop  
15 shipments, and we're going to have to notify  
16 the DEA, right?  
17 MS. HENN: Objection to form.  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. So don't use the word  
20 "suspicious" so we don't trigger that.  
21 MS. HENN: Objection to form.  
22 THE WITNESS: That's what's in  
23 the document. I don't -- I wasn't  
24 part of writing it or --  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. Well, you're part of  
3 implementing it, right?  
4 A. Part of the program, sure.  
5 Q. A big part of the program.  
6 You're senior director of the national  
7 accounts.  
8 A. Right.  
9 Q. Right?  
10 A. Right.  
11 Q. Okay. And when you came on  
12 board with your experience from Target and  
13 you, as part of your job, have to know what  
14 the CSMP is, you knew this was in there,  
15 right?  
16 MS. HENN: Objection to form.  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. You reviewed these policies?  
19 A. I reviewed this document, yeah.  
20 Q. Right.  
21 And in fact, this is the exact  
22 opposite of what you should be telling your  
23 employees in order -- if you -- in order to  
24 protect the public health and safety, right?  
25 MS. HENN: Objection to form.

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. You shouldn't be discouraging  
3 them from using a word that might require you  
4 to act, to stop a shipment that might be  
5 suspicious. You shouldn't do that, should  
6 you?  
7 MS. HENN: Same objection.  
8 THE WITNESS: We shouldn't  
9 discourage using information and  
10 acting upon information.  
11 QUESTIONS BY MR. RAFFERTY:  
12 Q. This is specifically telling  
13 them, don't use the word "suspicious" because  
14 if you do, we're going to be required to act,  
15 right?  
16 MS. HENN: Objection to form.  
17 QUESTIONS BY MR. RAFFERTY:  
18 Q. And to notify the DEA.  
19 MS. HENN: Objection to form.  
20 THE WITNESS: That's what it  
21 says in the document.  
22 QUESTIONS BY MR. RAFFERTY:  
23 Q. And in fact, it worked, because  
24 from 2008 until 2013, according to many of  
25 these US Attorneys, you weren't reporting any

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1 suspicious orders to the DEA, right?  
2 MS. HENN: Objection to form.  
3 THE WITNESS: That's what was  
4 alleged.  
5 QUESTIONS BY MR. RAFFERTY:  
6 Q. So at least this portion of the  
7 CSMP seems to be implemented pretty well by  
8 you-all, right?  
9 MS. HENN: Objection to form.  
10 QUESTIONS BY MR. RAFFERTY:  
11 Q. Seems to have worked, right?  
12 A. I know...  
13 MS. HENN: Objection to form.  
14 THE WITNESS: What's your  
15 question? Can you rephrase it?  
16 Can -- I'm not sure how to answer  
17 that.  
18 QUESTIONS BY MR. RAFFERTY:  
19 Q. Well, let me ask it this way:  
20 Where in this particular section is there any  
21 discussion about the public health and  
22 safety, about protecting people from opioid  
23 abuse, about preventing diversion?  
24 MS. HENN: Objection to form.  
25

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. What it says is, "Don't use the  
3 word 'suspicion' so we're not required to  
4 act"; isn't that right?  
5 MS. HENN: Objection to form.  
6 QUESTIONS BY MR. RAFFERTY:  
7 Q. That's what it says, sir,  
8 correct?  
9 A. That's what it says in the  
10 document.  
11 Q. Okay. All right. Let's look  
12 at 1.1443. Oh, that's what was -- that's the  
13 one we're on now.  
14 Oh, 43. Yes. And that has  
15 previously been marked as Exhibit 54. Oh,  
16 40, I'm sorry. The numbers are too close.  
17 They're 1433 and 1443. Okay. So this is  
18 Exhibit 1.1443.  
19 (McKesson-Hartle Exhibit 69  
20 marked for identification.)  
21 QUESTIONS BY MR. RAFFERTY:  
22 Q. This is Exhibit 1.1443, now  
23 marked as Exhibit 69.  
24 This is November 4, 2014, and  
25 it is from the US Department of Justice DEA

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1 in Springfield, Virginia.  
 2 Do you see that?  
 3 A. Yes.  
 4 Q. Okay. And it says, "Re:  
 5 registration consequences for McKesson  
 6 Corporation for violations of the Controlled  
 7 Substance Act."  
 8 A. I see that.  
 9 Q. And if you go to page 2, .2, it  
 10 says, "That having" -- this is the first full  
 11 paragraph, sir. "That having been said, we  
 12 remain concerned that McKesson fails to  
 13 appreciate the serious and systematic {sic}  
 14 nature of the CSA-related problems that DEA  
 15 has observed in its several investigations  
 16 into your client's operations."  
 17 Do you see that?  
 18 A. I do.  
 19 Q. "The loss of business that  
 20 McKesson may experience as a result of  
 21 surrendering DEA CORs is a justified and  
 22 appropriate consequence that is consistent  
 23 with the public interest."  
 24 You see that?  
 25 A. I see that.

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1 Q. So -- and then in the following  
 2 paragraph below that, "In order to release  
 3 all McKesson-owned DEA registrants from  
 4 administrative liability, as you have  
 5 requested, the agreed-upon registration  
 6 consequences must reflect not only the  
 7 gravity of the offenses but the nationwide  
 8 scope."  
 9 Do you see that? "The  
 10 nationwide scope of McKesson's failure to  
 11 report suspicious orders and to maintain  
 12 effective controls against diversion."  
 13 Do you see that?  
 14 A. I see that.  
 15 Q. The next paragraph: "As we  
 16 have discussed previously, McKesson-Aurora  
 17 lacked a functional suspicious order  
 18 reporting system for approximately five  
 19 years. McKesson-Aurora reported a total of  
 20 16 orders as suspicious in one batch,  
 21 occurring in one quarter, related to one  
 22 recently terminated pharmacy, while it  
 23 processed a total of 1.6 million orders for  
 24 controlled substances from 2008 to 2012."  
 25 So 16 out of 1.6 million; is

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1 that correct, Mr. Hartle?  
 2 MS. HENN: Objection to form.  
 3 THE WITNESS: Those are the  
 4 numbers listed in here.  
 5 QUESTIONS BY MR. RAFFERTY:  
 6 Q. Now, this goes through and  
 7 details additional distribution centers that  
 8 are being investigated and that have been  
 9 found to fail to report -- have been found  
 10 failing to report suspicious orders for years  
 11 after the 2008 agreement was entered into,  
 12 correct?  
 13 A. Can you say that again, please?  
 14 Q. Yeah. Let's turn to page .3.  
 15 "Like its Colorado counterpart,  
 16 McKesson's distribution center at 3820 --  
 17 38220 Plymouth Road, Livonia, Michigan,  
 18 McKesson-Livonia, reported no suspicious  
 19 orders for approximately five years after  
 20 McKesson's settlement with the DOJ."  
 21 Did I read that right?  
 22 A. You did.  
 23 Q. That's Livonia, Michigan.  
 24 And if you go down to the next  
 25 paragraph: "McKesson's systemic failures

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1 were also evident at its distribution center  
 2 at 3000 Kenskill Avenue, Washington Court  
 3 House, Ohio."  
 4 Do you see that?  
 5 A. I do.  
 6 Q. "Here again, McKesson did not  
 7 report any orders as suspicious for years  
 8 after the 2008 settlement with DOJ and DEA."  
 9 Do you see that?  
 10 A. I see that.  
 11 Q. "When DEA began to investigate  
 12 this silence, McKesson's regional director of  
 13 regulatory affairs told DEA investigators  
 14 that he did not know what a suspicious order  
 15 was."  
 16 Do you see that?  
 17 A. I see that.  
 18 Q. "And protested that the DEA had  
 19 not adequately defined the term."  
 20 Do you see that?  
 21 A. I do.  
 22 Q. The regional director of  
 23 regulatory affairs not knowing what a  
 24 suspicious order is at one of the largest  
 25 distributors of narcotics in the country; you

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1 think that's reasonable?  
2 MS. HENN: Objection to form.  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. They should know what a  
5 suspicious order is?  
6 A. They should.  
7 Q. Yeah. Okay. That is  
8 Washington Court House, Ohio.  
9 Going on to the next page.  
10 "McKesson's system to detect suspicious  
11 orders also fell short at the distribution  
12 center in Lakeland, Florida. Once again, in  
13 derogation of its responsibilities under the  
14 CSA and the 2008 MOA, McKesson-Lakeland  
15 failed to report any suspicious orders to DEA  
16 for a five-year period."  
17 Do you see that?  
18 A. I do.  
19 Q. So that's Lakeland, Florida.  
20 That was part of the 2008. So I'm not going  
21 to add this to the chart, but that was part  
22 of the 2008 settlement as well, right, that  
23 distribution center?  
24 MS. HENN: Objection to form.  
25 THE WITNESS: Correct.

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1 QUESTIONS BY MR. RAFFERTY:  
2 Q. All right. "McKesson also" --  
3 the next paragraph. "McKesson also remained  
4 silent about suspicious orders received by  
5 its distribution center at Methuen,  
6 Massachusetts, McKesson-Methuen."  
7 Do you see that?  
8 A. I do.  
9 Q. "As with other distribution  
10 centers McKesson operated, McKesson failed to  
11 report any suspicious orders from May 2008  
12 through November 2013, though it sold  
13 increasing amounts of oxycodone during the  
14 same time period with little to no  
15 investigation."  
16 Do you see that?  
17 A. I see that.  
18 Q. Methuen -- I don't even know if  
19 I'm pronouncing it right -- Massachusetts.  
20 And if we go over to tab F, the  
21 next paragraph, the first full paragraph.  
22 "As noted above, the above examples are  
23 illustrative, not exhaustive. They are meant  
24 to illustrate what we mean when we say that  
25 we will be driven by the evidence that we

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1 could present in the administrative  
2 proceedings against these registrants. We  
3 have attempted to highlight this evidence in  
4 the hopes that you and your client can fully  
5 understand why DEA believes that the failings  
6 at McKesson were as systematic {sic} as they  
7 were serious."  
8 Oh, I'm sorry, systemic as they  
9 were serious.  
10 Do you see that?  
11 A. I do.  
12 Q. Okay. So the word "systemic."  
13 And going back to what we  
14 discussed, just so that we can -- you can see  
15 what I'm writing down here, back to the first  
16 page -- the -- page .2 where it talks about  
17 "the agreed-upon registration consequences  
18 must reflect not only the gravity of the  
19 offenses but nationwide scope of McKesson's  
20 failure to report suspicious orders," so  
21 nationwide.  
22 Now, if we go forward now, this  
23 is in November 2014.  
24 Now -- well, first of all,  
25 let's take a look at 1.098.

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1 (McKesson-Hartle Exhibit 70  
2 marked for identification.)  
3 QUESTIONS BY MR. RAFFERTY:  
4 Q. This will be marked as  
5 Exhibit 70, and this is the McKesson  
6 Corporation's response to the Teamsters.  
7 Let's see what happens in 2015,  
8 if you look.  
9 Now, here, this is -- what this  
10 is is this is the board of directors of  
11 McKesson responding to the International  
12 Brotherhood of Teamsters who were  
13 shareholders -- or shareholders in McKesson  
14 raising questions about why that  
15 \$150 million -- the conduct surrounding that  
16 \$150 million fine, the \$13.25 million fine  
17 and its failures in regards to the control --  
18 the Controlled Substances Act, correct?  
19 MS. HENN: Objection to form.  
20 THE WITNESS: Correct.  
21 QUESTIONS BY MR. RAFFERTY:  
22 Q. Okay. Let's just -- I'm just  
23 going to draw you to one particular section  
24 because I just went through a whole bunch of  
25 different things where it was saying no



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1 reports were being filed by these different  
 2 distribution centers for suspicious orders,  
 3 yet in 2015 -- so zero -- you kept hearing  
 4 zero -- no reports from 2008 to 2013, no  
 5 reports from 2000 -- for years, right? Some  
 6 for five years, right?  
 7 A. Correct.  
 8 Q. Yet in 2015, you-all --  
 9 A. What page are we on?  
 10 Q. Sorry. Page 24 of the report.  
 11 In 2015, the bottom paragraph:  
 12 "Since 2015" -- the company provided the  
 13 following data: In 2015, after it's been --  
 14 being investigated by the DEA, the DOJ, the  
 15 company reported over 230,000 suspicious  
 16 orders.  
 17 MS. HENN: Sorry, so you're on  
 18 page --  
 19 MR. RAFFERTY: Page 24.  
 20 MS. HENN: Not .28.  
 21 MR. RAFFERTY: Oh, yeah, I'm  
 22 sorry, mine's not -- sorry.  
 23 QUESTIONS BY MR. RAFFERTY:  
 24 Q. Last sentence on that page.  
 25 A. Okay.

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1 Q. So no suspicious reports for  
 2 years, and then here it says the company  
 3 provided the following data: In 2015, the  
 4 company reported over 230,000 suspicious  
 5 orders. In 2016, the company reported over  
 6 220,000 suspicious orders. And in 2017, the  
 7 company reported over 145,000 suspicious  
 8 orders. Per year.  
 9 So going from zero for five  
 10 years to now reporting hundreds of thousands  
 11 of suspicious orders, right?  
 12 A. Systematically reporting,  
 13 correct.  
 14 Q. Okay. Now, if we could go to  
 15 the -- let's see, 1.088. Exhibit 58. This  
 16 is the copy we talked about earlier, so I'm  
 17 only going to go through one particular  
 18 aspect of it.  
 19 A. I apologize, I don't have my 58  
 20 quite yet. I'm a bit out of order.  
 21 Q. Okay.  
 22 A. Sorry about that. I have it  
 23 now.  
 24 Q. Okay. If you look at page --  
 25 this is the administrative memorandum of

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1 agreement for the 2017 \$150 million  
 2 settlement, correct?  
 3 A. Correct.  
 4 Q. Okay. So in here it says on  
 5 page 3, .3, it says, "Covered Conduct."  
 6 Do you see that?  
 7 "For the purpose of this  
 8 agreement, covered conduct means the  
 9 following conduct alleged by the government  
 10 for the covered time period."  
 11 And it says, "McKesson failed  
 12 to maintain effective controls against  
 13 diversion of particular controlled substances  
 14 into other than legitimate medical,  
 15 scientific and industrial channels by sales  
 16 to certain of its customers, in violation of  
 17 the CSA and CSA's implementing regulations at  
 18 McKesson distribution centers, including the  
 19 following."  
 20 So we're going to go through  
 21 and list those, and if they're not on this  
 22 list already, I'm going to add them, okay?  
 23 A. Okay.  
 24 Q. Aurora, Colorado, that's on  
 25 there.

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1 Aurora, Illinois, is not on  
 2 there.  
 3 Delran, New Jersey, not on  
 4 there.  
 5 Lacrosse, Wisconsin, not on  
 6 there.  
 7 Lakeland, Florida, that's on  
 8 there.  
 9 Landover, Maryland, that's on  
 10 there.  
 11 La Vista, Nebraska.  
 12 Livonia, Michigan, that's on  
 13 there.  
 14 Methuen, Massachusetts, that's  
 15 on there.  
 16 Santa Fe Springs, California,  
 17 that's not on there.  
 18 Washington Court House, Ohio,  
 19 that's on there.  
 20 And West Sacramento,  
 21 California, that's on there.  
 22 Those are all the distribution  
 23 centers in the different states that the  
 24 allegations from -- in the 2008 and 2017  
 25 settlement -- if I could have the Elmo --



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1 involved, correct?

2 All right. So what we have

3 here is, if you look, "The conduct for

4 failing to report suspicious orders" -- and

5 it was cited by and investigated by the DOJ

6 and DEA -- "involve distribution centers from

7 Maryland, Florida, Texas, Colorado, Utah,

8 California, Illinois, Michigan, Ohio,

9 Massachusetts, Wisconsin, Nebraska," and then

10 California, which I'm not counting again.

11 But that makes 12 states, correct, 12

12 different states?

13 MS. HENN: Objection to form.

14 THE WITNESS: Correct.

15 QUESTIONS BY MR. RAFFERTY:

16 Q. Right.

17 Which is one of the reasons it

18 led to the comments by the US Attorney and

19 the Department of Justice as these being

20 systemic and nationwide failures, correct?

21 MS. HENN: Objection to form.

22 THE WITNESS: Correct.

23 QUESTIONS BY MR. RAFFERTY:

24 Q. Okay. And in fact, you're

25 familiar with the concept of the migration of

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1 diverted drugs, correct, meaning drugs

2 that -- go ahead.

3 A. That move borders.

4 Q. Right.

5 A. Right.

6 Q. Drugs don't just -- because you

7 sell it to one particular pharmacy doesn't --

8 in one particular town doesn't mean that drug

9 is staying in that town, right?

10 A. Agreed.

11 Q. In fact, there's migration all

12 the way -- and it's been well-known and shown

13 that in terms of the drugs, for example, the

14 narcotics that were being sold by McKesson in

15 Florida, and the migration all the way up

16 through the Midwest, into Ohio and throughout

17 the country, correct?

18 MS. HENN: Objection to form.

19 THE WITNESS: Can you say that

20 again? I want to make sure --

21 QUESTIONS BY MR. RAFFERTY:

22 Q. Yeah. You're familiar -- well,

23 let me show you this. Let's just look at

24 this.

25 This is from Exhibit 44, and I

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1 can just put this up, if you want. It's a

2 chart.

3 This is from, just so you are

4 aware, the prescription drug abuse we looked

5 at earlier.

6 A. I've seen it before.

7 Q. Okay.

8 A. Okay.

9 Q. From McKesson. This is from

10 McKesson in 2014. And this is one of the

11 slides. "Drug diversion, migration out of

12 Florida."

13 And you see the arrow going all

14 the way up through Georgia, Tennessee,

15 Kentucky, Ohio, Missouri?

16 A. Yeah, I'm aware of --

17 MS. HENN: Objection to form.

18 THE WITNESS: Oh, excuse me.

19 Aware of how drugs move and

20 migrate, so...

21 QUESTIONS BY MR. RAFFERTY:

22 Q. Right.

23 So when you're talking about

24 drugs being diverted in 12 different states,

25 it's not limited to those 12 states, right?

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1 Those drugs move out of those states?

2 A. They can.

3 MS. HENN: Objection to form.

4 QUESTIONS BY MR. RAFFERTY:

5 Q. They can.

6 And in fact, the distribution

7 centers that you're talking about, that when

8 we're talking about distribution centers in

9 these states, those distribution centers

10 actually service pharmacies in other states,

11 right?

12 It's not just because it's

13 located in, you know, Washington Court House,

14 Ohio, that it's not servicing pharmacies in

15 other states or surrounding states, correct?

16 A. Correct. Distribution centers

17 can serve customers in multiple states.

18 Q. Right. So what we're talking

19 about when we talk about 12 states being

20 implicated, that's just the 12 states where

21 the distribution centers are.

22 But when we're talking about

23 systemic and nationwide failures at these

24 distribution centers, we're talking about

25 drugs migrating and the distribution centers

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1 servicing many other surrounding states as  
2 well, correct?  
3 MS. HENN: Objection to form.  
4 THE WITNESS: Can you clarify  
5 that question for me, please?  
6 QUESTIONS BY MR. RAFFERTY:  
7 Q. Yeah.  
8 Remember I had the chart up and  
9 showed that there were -- the 12 distribution  
10 centers that were at the heart of the 2008  
11 and 2017 --  
12 A. Correct.  
13 Q. -- settlements, correct?  
14 A. Yes.  
15 Q. Based on allegations from the  
16 DOJ and the DEA, right?  
17 A. Right.  
18 Q. And we know in 2017, at least  
19 McKesson accepted responsibility in that  
20 particular settlement agreement, right?  
21 MS. HENN: Objection to form.  
22 QUESTIONS BY MR. RAFFERTY:  
23 Q. We went through that earlier  
24 this morning.  
25 MS. HENN: Same objection.

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1 THE WITNESS: Yeah, certain  
2 pieces related to specific orders,  
3 yes.  
4 QUESTIONS BY MR. RAFFERTY:  
5 Q. And specifically -- so what I'm  
6 saying is, because we're talking about --  
7 trying to see that -- the effect that that  
8 has, that diversion has -- based out of  
9 distribution centers, it affects not just the  
10 state that it's sitting in but many other  
11 states that it services as well, correct?  
12 MS. HENN: Objection to form.  
13 THE WITNESS: I agree that  
14 diversion migrates.  
15 QUESTIONS BY MR. RAFFERTY:  
16 Q. Right.  
17 A. So there's the possibility  
18 of --  
19 Q. But in addition to migration --  
20 because we agreed on that. Diversion  
21 migrates. We see that, and McKesson has  
22 acknowledged it. This is just one example of  
23 it.  
24 You've heard of the oxy  
25 express?

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1 A. I have.  
2 Q. Okay. And so in addition to  
3 that, though, just from -- not even talking  
4 about migration. Once it's put in place at a  
5 pharmacy, the distribution center that is  
6 failing in preventing diversion may be  
7 servicing pharmacies in several other states,  
8 not just the state it sits in.  
9 You would agree with that?  
10 MS. HENN: Objection to form.  
11 THE WITNESS: I agree with  
12 that.  
13 QUESTIONS BY MR. RAFFERTY:  
14 Q. Okay. Now, one last thing.  
15 You were...  
16 MR. RAFFERTY: Let's take a  
17 five-minute break. I think we  
18 might -- my part might be wrapping up.  
19 VIDEOGRAPHER: The time is  
20 3:08 p.m., and we're going off the  
21 record.  
22 (Off the record at 3:08 p.m.)  
23 VIDEOGRAPHER: The time is  
24 3:17 p.m., and we're back on the  
25 record.

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1 DIRECT EXAMINATION  
2 QUESTIONS BY MR. PAPANTONIO:  
3 Q. You've been questioned about  
4 the migration of opioids, narcotics, that  
5 your company sold, correct?  
6 That was right where  
7 Mr. Rafferty left off, was asking you about  
8 how narcotics that your company distributed  
9 migrated around the United States, right?  
10 MS. HENN: Objection to form.  
11 QUESTIONS BY MR. PAPANTONIO:  
12 Q. Remember the question before  
13 the break?  
14 A. Yeah, we were talking about the  
15 concept of migration.  
16 Q. And he talked about the fact  
17 that not only was there migration, but you --  
18 everywhere this list that he made -- how  
19 about -- let me put that back on here.  
20 This list that Mr. Rafferty  
21 made, these are actually what we call  
22 distribution centers, correct? These are  
23 distribution centers, right?  
24 A. Those are the locations of our  
25 distribution centers, correct.

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1 Q. Right.  
 2 And the idea of the  
 3 distribution center is that you just don't  
 4 distribute in the one state; you may have  
 5 five states, you may have four states. They  
 6 hit other areas besides the states that  
 7 they're in, correct?  
 8 MS. HENN: Objection to form.  
 9 QUESTIONS BY MR. PAPANTONIO:  
 10 Q. Is that a correct statement,  
 11 sir?  
 12 A. Correct. That's a traditional  
 13 distribution-type model.  
 14 Q. And as a matter of fact, in  
 15 addition to these, how many distribution  
 16 sites did you have total?  
 17 MS. HENN: Objection to form.  
 18 THE WITNESS: It's  
 19 approximately 30.  
 20 QUESTIONS BY MR. PAPANTONIO:  
 21 Q. Okay. So in addition to  
 22 this -- I'm going to mark this exhibit up a  
 23 little more. And you had 30 total  
 24 distribution centers?  
 25 A. Approximately.

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1 Q. And you would agree that each  
 2 one of those distribution centers had other  
 3 states that they serviced, is that correct,  
 4 besides where they were located, right?  
 5 A. Correct. They typically  
 6 distribute to different states, yes.  
 7 Q. And in addition to that, we  
 8 would have the problem as you talked about,  
 9 migration. And my partner there showed you  
 10 what he called the oxy express.  
 11 You've heard the oxy express,  
 12 right?  
 13 MS. HENN: Objection to form.  
 14 THE WITNESS: He mentioned  
 15 that, yeah; he didn't show us  
 16 anything.  
 17 QUESTIONS BY MR. PAPANTONIO:  
 18 Q. And you would agree that the  
 19 oxy express you're familiar with before you  
 20 came in here today. It's not the first time  
 21 you've heard it, true?  
 22 A. It's not the first time I've  
 23 heard it.  
 24 Q. Okay. And did you ever study  
 25 what the effect of the oxy express was on

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1 those states that he showed you, from Florida  
 2 to Georgia to Kentucky?  
 3 Did you ever study what the --  
 4 what the effect was in each one of those  
 5 states, how many people died in each one of  
 6 those states that the oxy express went  
 7 through before you came in here today?  
 8 MS. HENN: Objection to form.  
 9 THE WITNESS: I did not study  
 10 that. I'm aware of the effects.  
 11 QUESTIONS BY MR. PAPANTONIO:  
 12 Q. Did you ever study, sir, any  
 13 details about the findings that my partner  
 14 went over with you this morning that the DEA  
 15 had made in your failure to report suspicious  
 16 orders and the end result of what that meant  
 17 in human life, people dying?  
 18 Did you ever independently do  
 19 that in your position in regulatory?  
 20 MS. HENN: Objection to form.  
 21 QUESTIONS BY MR. PAPANTONIO:  
 22 Q. At any time.  
 23 MS. HENN: Objection to form.  
 24 THE WITNESS: Could you  
 25 rephrase that question, please?

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1 QUESTIONS BY MR. PAPANTONIO:  
 2 Q. Yes, sir. Yeah.  
 3 You just saw all the documents  
 4 my partner went over where they're talking  
 5 about the failure of the company to follow  
 6 the law in suspicious orders and in having a  
 7 system that allows you to keep up with what  
 8 the distribution of your narcotics are.  
 9 You remember that? We just  
 10 spent hours on that, right?  
 11 MS. HENN: Objection to form.  
 12 THE WITNESS: I remember our  
 13 previous conversations.  
 14 QUESTIONS BY MR. PAPANTONIO:  
 15 Q. Okay. So you remember the  
 16 documents my partner just showed you from the  
 17 DEA, right, about the failures of your  
 18 company to adequately handle the narcotics  
 19 that your company was shipping all over the  
 20 country?  
 21 MS. HENN: Objection to form.  
 22 QUESTIONS BY MR. PAPANTONIO:  
 23 Q. You remember those documents my  
 24 partner just went over, right?  
 25 A. I do.

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1 Q. Okay. And you also -- so my  
2 question is: Did you ever go find out what  
3 the net result of that was when you would  
4 have an excess of your narcotics shipped to a  
5 pharmaceutical company -- or excuse me,  
6 scratch that.

7 Did you ever find out what the  
8 net result was in human life or death from  
9 your narcotics being shipped to a pharmacy in  
10 excess of what that pharmacy really needed?

11 MS. HENN: Objection to form.

12 THE WITNESS: I've read many  
13 articles and publications about some  
14 of the effects of opioid diversion  
15 across the country.

16 QUESTIONS BY MR. PAPANTONIO:

17 Q. But, sir, you're head of  
18 regulatory, right?

19 A. I'm one of the regulatory  
20 leaders.

21 Q. Did you ever go in the field  
22 and find out what the human cost of this  
23 whole issue is?

24 MS. HENN: Objection to form.

25

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1 QUESTIONS BY MR. PAPANTONIO:

2 Q. Did you ever do that?

3 MS. HENN: Same objection.

4 THE WITNESS: Not go into the  
5 field to study the human cost.

6 QUESTIONS BY MR. PAPANTONIO:

7 Q. You understand this -- this  
8 case isn't about statistics; it's about human  
9 life, right? You understand that, right?

10 MS. HENN: Objection to form.

11 THE WITNESS: I understand  
12 that.

13 QUESTIONS BY MR. PAPANTONIO:

14 Q. Okay. And so as a regulator,  
15 don't you think it's important that you  
16 understand what the loss of human life is due  
17 to the failures of your company to follow the  
18 law?

19 Is that important to you; yes  
20 or no? That's what I'm wondering here, sir.

21 MS. HENN: Objection to form.

22 THE WITNESS: Well, it's  
23 important for us to know the impact of  
24 diversion across the country.

25

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1 QUESTIONS BY MR. PAPANTONIO:

2 Q. Because you understand  
3 diversion ends up in human -- in the loss of  
4 human life. You know that, right?

5 MS. HENN: Objection to form.

6 THE WITNESS: I do know that,  
7 absolutely.

8 QUESTIONS BY MR. PAPANTONIO:

9 Q. Uh-huh. And as a matter of  
10 fact, before you came in here today --

11 MR. PAPANTONIO: Would you  
12 share with him 324, please.

13 (McKesson-Hartle Exhibit 89  
14 marked for identification.)

15 MS. MOORE: That would be  
16 McKesson-Hartle 89.

17 QUESTIONS BY MR. PAPANTONIO:

18 Q. Before you came in here today,  
19 sir, you knew that the CDC had been -- had  
20 been studying and following exactly what the  
21 loss of human life was because of the sale of  
22 narcotics in the United States. You knew  
23 that they had been studying that, right?

24 A. I do.

25 Q. And so when did you take this

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1 map that's -- you see this map in front of  
2 you?

3 A. I do.

4 Q. When did you take it and study  
5 it to find out what the net effect was in the  
6 loss of human life because of diversion of  
7 narcotics from your company? When is the  
8 first time you did that --

9 MS. HENN: Objection to form.

10 QUESTIONS BY MR. PAPANTONIO:

11 Q. -- if ever?

12 MS. HENN: Objection to form.

13 THE WITNESS: Can you please  
14 rephrase that for me?

15 QUESTIONS BY MR. PAPANTONIO:

16 Q. Yeah.

17 When is the first -- have you  
18 ever seen this map?

19 A. I have. I've been at  
20 conferences where it's been shared. I've  
21 used it in education with others as well.

22 Q. Okay. So you've used it with  
23 education. And so as I talk to you about it,  
24 you're going to understand as we go through  
25 there what the loss of human life was between



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1 1999 and 2016.  
 2 You've understood what the  
 3 human life -- loss of human life was,  
 4 correct, before we got here today?  
 5 A. Absolutely.  
 6 Q. Okay. And it's -- so here's  
 7 what I want to find out: You knew that in  
 8 1999 -- see that map up there?  
 9 You knew in 1999 that is what  
 10 the death map looked like in 1999, correct?  
 11 MS. HENN: Objection to form.  
 12 QUESTIONS BY MR. PAPANTONIO:  
 13 Q. The CDC death map, you know  
 14 that's what it looked like in 1999, true?  
 15 A. True, I've seen this before.  
 16 Q. Okay. Let me ask you while  
 17 we're talking about that: Any of these other  
 18 companies that said they were here today,  
 19 Cardinal or CVS, were any of them at this  
 20 place where you talked about the death map?  
 21 MS. HENN: Objection to form.  
 22 QUESTIONS BY MR. PAPANTONIO:  
 23 Q. In your lecture, as you  
 24 describe it?  
 25 MS. HENN: Same objection.

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1 THE WITNESS: I didn't describe  
 2 it as a lecture.  
 3 I'm not sure if any -- I've  
 4 talked with different individual  
 5 chains.  
 6 QUESTIONS BY MR. PAPANTONIO:  
 7 Q. Well, tell me who you've talked  
 8 to about the loss of human life regarding the  
 9 sale of narcotics in the United States. What  
 10 other companies besides you have you had a  
 11 conversation with besides your company?  
 12 A. As part of my due diligence and  
 13 as part of my interaction with chains, I've  
 14 given presentations to nearly all of them  
 15 that reference in some way.  
 16 Q. Okay. Do you remember showing  
 17 this map to the folks at CVS, ever, saying,  
 18 "Hey, you might want to take a look at this.  
 19 CDC has studied this, and the CDC can tell us  
 20 how many people have been dying between 1999  
 21 and 2016"?  
 22 Did you ever do that with CVS?  
 23 A. I did not share this map with  
 24 CVS.  
 25 Q. Did you share it with anybody?

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1 A. I have.  
 2 Q. Who did you share it with?  
 3 MS. HENN: Objection to form.  
 4 Go ahead.  
 5 THE WITNESS: I've shared  
 6 pieces of this with -- I think it was  
 7 in one of the documents -- Discount  
 8 Drug Mart.  
 9 QUESTIONS BY MR. PAPANTONIO:  
 10 Q. Discount Drug Mart. Was that  
 11 one of your customers?  
 12 A. It is.  
 13 Q. And so when did -- do you  
 14 remember when you shared it with them?  
 15 A. When we on-boarded them. And I  
 16 don't remember the exact date. Earlier in  
 17 the -- 2017. That's an example I've shared  
 18 it.  
 19 Q. Shared it. Okay.  
 20 So if we look --  
 21 A. I understand the map.  
 22 Q. Okay. Good. Good.  
 23 Do you know who Mr. Oriente is?  
 24 A. I do.  
 25 Q. He worked for you, didn't he?

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1 MS. HENN: Object to the form.  
 2 THE WITNESS: He does.  
 3 QUESTIONS BY MR. PAPANTONIO:  
 4 Q. Did anybody show you the  
 5 deposition of Mr. Oriente before you came in  
 6 here today?  
 7 Did anybody show you that  
 8 deposition where we questioned him for seven  
 9 hours?  
 10 A. I have not seen it.  
 11 Q. Did you know that Mr. Oriente  
 12 represented he'd never seen the death map?  
 13 MS. HENN: Objection to form.  
 14 QUESTIONS BY MR. PAPANTONIO:  
 15 Q. Would that surprise you if  
 16 somebody in charge, somebody in charge of  
 17 regulatory, said, "I've never even seen the  
 18 death map"? Would that surprise you?  
 19 MS. HENN: Objection to form.  
 20 THE WITNESS: It's a little  
 21 surprising since it's been in some  
 22 decks.  
 23 QUESTIONS BY MR. PAPANTONIO:  
 24 Q. Uh-huh. And the reason it's  
 25 been published, sir, is to be able to have



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1 people like you understand what the expansion  
2 of your narcotics was doing to human life in  
3 this country. That's one reason the CDC did  
4 this; you understand that, right?  
5 MS. HENN: Objection to form.  
6 QUESTIONS BY MR. PAPANTONIO:  
7 Q. Did you know that?  
8 A. Can you rephrase that, please?  
9 Q. Yeah.  
10 One reason the CDC came up with  
11 this map is so the entire country could  
12 understand what the expansion of narcotics  
13 was doing in relation to the loss of human  
14 life in this country.  
15 Did you know that?  
16 A. Correct, yes.  
17 Q. Okay. And you know part of  
18 this case is involved -- the jury is going to  
19 hear economists in this case talk about what  
20 the economic losses were because of that  
21 human life.  
22 Did you understand that that's  
23 part of the issue that we're involved with  
24 here today?  
25 MS. HENN: Objection to form.

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1 QUESTIONS BY MR. PAPANTONIO:  
2 Q. Did you know that?  
3 A. Yes.  
4 Q. Okay. Did you go out and find  
5 out what it is that -- when you have people  
6 dying or people addicted to drugs in a county  
7 or a city, what the economic impact is on  
8 that city or county?  
9 Did you do any kind of study at  
10 all to find out what that economic impact is?  
11 MS. HENN: Objection to form.  
12 And I'll advise the witness if  
13 counsel is asking about attorney work  
14 product in relation to the case, he  
15 should not respond.  
16 MR. PAPANTONIO: I'm not asking  
17 him about anything work product.  
18 QUESTIONS BY MR. PAPANTONIO:  
19 Q. Sir, have you talked to anybody  
20 about what the economic losses are of people  
21 that are addicted to drugs in a county and  
22 people who have died from drug overdoses in a  
23 county or a city?  
24 Has anybody shared with you  
25 what the economic loss is to the taxpayers

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1 that live in those cities or counties?  
2 MS. HENN: Objection to form.  
3 THE WITNESS: No.  
4 QUESTIONS BY MR. PAPANTONIO:  
5 Q. All right. So if we look at  
6 this map, we start in 1999. You see, that's  
7 the first one. And you see down at the very  
8 bottom, you see where the brown is at the  
9 very bottom? It says that's 30 deaths per  
10 every 100,000.  
11 A. I see that.  
12 Q. Right?  
13 Now, when you took -- when you  
14 looked at this -- I've already asked you  
15 whether or not you took it on yourself to  
16 find out by going to these various states and  
17 counties and cities and finding out what the  
18 human impact was. You said you hadn't done  
19 that yourself, right?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: Correct, I  
22 haven't done that.  
23 QUESTIONS BY MR. PAPANTONIO:  
24 Q. Would you tell me anybody that  
25 you know of in your company, McKesson, that

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1 has given a speech about, "Hey, I knew about  
2 the death map, and I went out and I actually  
3 tried to find out what the impact was as far  
4 as human life in these various counties or  
5 cities"?  
6 MS. HENN: Objection to form.  
7 QUESTIONS BY MR. PAPANTONIO:  
8 Q. Anybody?  
9 A. I don't know anybody who's done  
10 that specific task, to go out and inquire  
11 about the costs.  
12 Q. Do you think that's pretty --  
13 no, how about just -- how about inquire about  
14 human life, the loss of human life? That's  
15 pretty important, isn't it?  
16 MS. HENN: Objection to form.  
17 QUESTIONS BY MR. PAPANTONIO:  
18 Q. Yes?  
19 A. We all pay attention to the  
20 loss of human life.  
21 Q. Well, let's see how much  
22 attention you paid here. Okay?  
23 Because the loss of human life  
24 starts in 1999. You know where Virginia --  
25 West Virginia is on that map?

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1 A. I do.  
2 Q. What would you -- how would you  
3 describe where it is on that map? Would it  
4 be the brown place right there?  
5 A. In here.  
6 Q. You're going to have to -- are  
7 you pointing to the brown area there?  
8 Can I put a circle around the  
9 brown area?  
10 A. Yeah. Right there.  
11 Q. That's West Virginia, right?  
12 A. Correct.  
13 Q. Now, that's in 1999. They're  
14 telling you by this map that 30 people for  
15 every 100,000 people have died, correct?  
16 MS. HENN: Objection to form.  
17 QUESTIONS BY MR. PAPANTONIO:  
18 Q. That's the information that map  
19 gives you in 1999.  
20 MS. HENN: Objection to form.  
21 THE WITNESS: Correct. That's  
22 the mortality rate.  
23 QUESTIONS BY MR. PAPANTONIO:  
24 Q. And then the -- well, the  
25 mortality rate is people dying, right?

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1 A. Correct.  
2 Q. Okay. And then we look at the  
3 brown place on the map over here to the west,  
4 and that's -- where is that, New Mexico?  
5 A. Right there.  
6 Q. Is that New Mexico?  
7 A. I can't tell the outline of the  
8 state, but I...  
9 Q. Well, there's one big brown  
10 area right there.  
11 Do you understand that that --  
12 A. Yeah, that area.  
13 Q. Okay. You understand that's a  
14 county, right?  
15 A. Right. Correct.  
16 Q. And what they've -- what the  
17 map actually does is it breaks it down into  
18 counties. It doesn't just tell you a state.  
19 It says, in this county in 1999, we had 30  
20 people for every 100,000 people who were  
21 dying.  
22 That's what this map told you  
23 in 1999, right?  
24 MS. HENN: Objection to form.  
25

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1 QUESTIONS BY MR. PAPANTONIO:  
2 Q. Correct?  
3 A. Correct.  
4 Q. And nevertheless, you're  
5 telling me that you can't tell anybody -- you  
6 don't know the name of anybody who went out  
7 and did a study to find out how much your  
8 company was impacting that death, true?  
9 MS. HENN: Objection to form.  
10 THE WITNESS: True.  
11 QUESTIONS BY MR. PAPANTONIO:  
12 Q. And your company is the number  
13 one pharmaceutical company selling narcotics  
14 in this country, correct? Number one. Isn't  
15 that what --  
16 MS. HENN: Objection to form.  
17 QUESTIONS BY MR. PAPANTONIO:  
18 Q. Isn't that what you brag about,  
19 you're number one?  
20 A. We're the largest.  
21 Q. Yeah, you're the largest.  
22 And then the other people right  
23 next to you is a company called Cardinal,  
24 correct?  
25 A. Correct.

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1 Q. Right?  
2 And the other one is  
3 Amerisource, true?  
4 A. True.  
5 Q. As a matter of fact, you've  
6 gone to conventions where all of you-all have  
7 been together talking about these types of  
8 issues, about the problem of drugs being  
9 spread out across the country.  
10 MS. HENN: Objection to form.  
11 QUESTIONS BY MR. PAPANTONIO:  
12 Q. You've talked about that,  
13 right?  
14 A. Members on our team have, yes.  
15 Q. Yeah.  
16 So it's not just you in a room  
17 talking about it. You've been in a room  
18 talking about it with Cardinal. You've been  
19 in a room talking about it with Amerisource,  
20 which is the second and third largest  
21 pharmaceutical narcotics distributor in the  
22 country, correct?  
23 MS. HENN: Objection to form.  
24 THE WITNESS: Correct.  
25

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1 QUESTIONS BY MR. PAPANTONIO:  
2 Q. Right?  
3 Okay. And when you talked  
4 about it, you actually talked about issues  
5 about how many people are dying in these  
6 various counties around the country from  
7 overdose on their narcotics and your  
8 narcotics, right?  
9 MS. HENN: Objection to form.  
10 QUESTIONS BY MR. PAPANTONIO:  
11 Q. That's correct, isn't it?  
12 A. Could you restate that?  
13 Q. Yeah.  
14 You've actually had  
15 conversations with these other companies,  
16 Cardinal and Amerisource, about how many  
17 people were dying because of their narcotics  
18 that they were selling and your narcotics  
19 that you were selling. You've actually had  
20 conversations about that --  
21 MR. SUDDATH: Objection.  
22 MS. HENN: Objection to form.  
23 QUESTIONS BY MR. PAPANTONIO:  
24 Q. -- true?  
25 A. I have not personally, no.

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1 Q. Have you been in a room where  
2 that's taken place?  
3 MS. HENN: Objection to form.  
4 QUESTIONS BY MR. PAPANTONIO:  
5 Q. I think you already said yes.  
6 You want to change that?  
7 MS. HENN: Objection to form.  
8 QUESTIONS BY MR. PAPANTONIO:  
9 Q. Have you been in a room, sir,  
10 where Amerisource, Cardinal and McKesson have  
11 been discussing the expansion of death in  
12 this United States because of the narcotics  
13 that those companies sold in this country,  
14 ever?  
15 MR. SUDDATH: Objection.  
16 MS. HENN: Objection to form.  
17 QUESTIONS BY MR. PAPANTONIO:  
18 Q. Have you been there?  
19 MS. HENN: Objection to form.  
20 THE WITNESS: I don't believe  
21 that's what I have said.  
22 QUESTIONS BY MR. PAPANTONIO:  
23 Q. Well, if you hadn't said it,  
24 then that's fine. You don't -- that's never  
25 happened. Is that your testimony, that's

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1 never happened?  
2 A. I don't recall that I've been  
3 in a room with those three and having that  
4 conversation.  
5 Q. Have you ever had that  
6 conversation in a room or out of a room, sir?  
7 MS. HENN: Objection to form.  
8 MR. PAPANTONIO: Give me the  
9 document.  
10 MR. SUDDATH: Objection.  
11 QUESTIONS BY MR. PAPANTONIO:  
12 Q. Have you? Yes or no?  
13 MS. HENN: Objection to form.  
14 QUESTIONS BY MR. PAPANTONIO:  
15 Q. Have you participated in a  
16 conversation with Amerisource and Cardinal  
17 where you have discussed the expansion of  
18 death in this country because of the sale of  
19 narcotics?  
20 MS. HENN: Objection to form.  
21 MR. SUDDATH: Objection.  
22 QUESTIONS BY MR. PAPANTONIO:  
23 Q. Yes or no?  
24 A. I don't recall.  
25 Q. All right. Sir, let's go to

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1 2000. Let's go to -- the next page is 2000.  
2 Could we do something -- what  
3 I'd like to do here is keep 1999 up on the  
4 left, and let's go through a comparison on  
5 the right.  
6 So in 2000 -- let's look at  
7 that. Actually, what I'd really --  
8 MR. PAPANTONIO: Can you  
9 understand what I'm saying here? Can  
10 you just put one and one, or is that  
11 not possible? One on each -- one on  
12 each screen.  
13 VIDEOGRAPHER: No, they're  
14 connected.  
15 MR. PAPANTONIO: Okay. That's  
16 fine. We can do this.  
17 QUESTIONS BY MR. PAPANTONIO:  
18 Q. All right. So you see -- does  
19 it look like in 2000 that there's an  
20 expansion of the death data taking place, or  
21 do you see any difference in that between  
22 1999 and 2000?  
23 Do you see any appreciable  
24 differences in death occurring in this  
25 country?

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1 MS. HENN: Objection to form.  
2 QUESTIONS BY MR. PAPANTONIO:  
3 Q. 2000.  
4 A. Yeah, you see different  
5 states -- or different counties are shaded  
6 different colors.  
7 Q. It's expanding, isn't it?  
8 Death in the United States is expanding, and  
9 this map shows that, doesn't it?  
10 A. Correct.  
11 Q. And still at this point, you're  
12 unable to name one person from McKesson that  
13 went out to the counties and the cities that  
14 are delineated on this death map to find out  
15 what you could do to reverse that trend of  
16 death; is that a correct statement?  
17 MS. HENN: Objection to form.  
18 THE WITNESS: Yes.  
19 QUESTIONS BY MR. PAPANTONIO:  
20 Q. All right. Let's go to the  
21 next one.  
22 Can I tell you something? I  
23 want you to understand. I'm not blaming you  
24 for all this; you understand that?  
25 A. I understand.

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1 Q. Okay. I'm just asking  
2 questions.  
3 A. I understand.  
4 Q. So please don't think I'm  
5 blaming you. You didn't even get there until  
6 2008.  
7 A. 2014.  
8 Q. 2014.  
9 So obviously we're not at 2014  
10 now.  
11 But what is important to me,  
12 Mr. Hartle, is this information was available  
13 to McKesson. That's all I'm trying to get at  
14 right here right now. Okay?  
15 A. Understood.  
16 Q. Okay. So we go to 2001. Tell  
17 me whether you see any appreciable difference  
18 in the amount of death taking place in the  
19 United States between 1999 -- you know what  
20 you can do? If it helps you, you can keep  
21 1999 right next to you and just tell me  
22 whether or not you see an expansion of death  
23 in human -- whether you see an expansion of  
24 human death because of narcotics in this  
25 country.

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1 Do you see an expansion here?  
2 MS. HENN: Objection to form.  
3 QUESTIONS BY MR. PAPANTONIO:  
4 Q. In 2001, would you have -- is  
5 there anything appreciable that you see that  
6 maybe we ought to know about, 2001?  
7 A. Again, different -- different  
8 shadings and different expansions.  
9 Q. And tell me what's significant,  
10 sir, about the shading and the expansions.  
11 Let's focus on that.  
12 Do you see the one right in the  
13 middle that's kind of a tan, it's -- let's  
14 call it a white. It's says there's 15.9  
15 human beings dying from drug overdoses for  
16 every 100,000 people in those areas.  
17 Do you see that tan area?  
18 A. The scale and the shading?  
19 Q. Yes, sir. Yes, sir.  
20 A. I do see that.  
21 Q. Okay. I want you to watch that  
22 as we go, okay? There's two things I'd like  
23 you to watch. I'd like you to watch that,  
24 which is about middle of the graph, right?  
25 The middle of the graft is -- graph is 14 --

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1 14 to 15.9 human deaths per hundred thousand.  
2 And I'd like you to keep your  
3 eye on that 30 at the bottom where that's 30  
4 human beings dying for every 100,000.  
5 So let's go to the next one.  
6 The next one is 2002.  
7 Would you agree, sir, as you're  
8 looking at that, as you're looking at that  
9 and making your comparison to 1999, would you  
10 agree that there's a substantial expansion of  
11 human death in the country in 2002?  
12 A. Yes, there's a continued  
13 expansion.  
14 Q. Yes, sir.  
15 And would you agree that in  
16 each one of those -- each one of those areas  
17 where we have some color beyond the blue that  
18 you had -- that your company was distributing  
19 in those areas?  
20 A. Sorry, can you rephrase that?  
21 Q. Yeah, I'm trying to take the  
22 blue out right now. I'm going to talk about  
23 the blue in just a minute.  
24 A. Okay.  
25 Q. But when we're talking about



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1 human death where the brown is involved and  
2 human death where the tan is involved, you  
3 would agree you had a distribution area --  
4 you distributed your narcotics in those  
5 areas, correct?  
6 MS. HENN: Objection to form.  
7 THE WITNESS: Yes, we have a  
8 nationwide distribution model.  
9 QUESTIONS BY MR. PAPANTONIO:  
10 Q. Yes, sir, that's what I'm  
11 trying to figure out.  
12 All right. Now, the next  
13 thing -- that's 2002, and then we have 2003.  
14 And in 2003, do you still  
15 continue to see an expansion of human death  
16 from narcotic overdoses taking place in the  
17 United States? 2003.  
18 A. Yes.  
19 Q. And in those areas, those would  
20 be areas that McKesson would have distributed  
21 narcotics, correct?  
22 A. Again, we distribute  
23 nationwide, yes.  
24 Q. When did you start distributing  
25 narcotics? What year?

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1 MS. HENN: Objection to form.  
2 THE WITNESS: I'm not 100  
3 percent sure.  
4 QUESTIONS BY MR. PAPANTONIO:  
5 Q. It was around 1999, wasn't it?  
6 MS. HENN: Objection to form.  
7 QUESTIONS BY MR. PAPANTONIO:  
8 Q. Do you know?  
9 A. I don't know.  
10 Q. Okay.  
11 A. I actually don't know.  
12 Q. I'll show you more details on  
13 that, but I want to go through this map.  
14 Let's go through 2004. You see  
15 an expansion of human death on that map in  
16 2004?  
17 Are you able to see an  
18 appreciable difference between 1999 where  
19 people were dying and 2004 where people were  
20 dying from narcotic overdoses in the United  
21 States?  
22 A. Yes.  
23 Q. All right. And you would agree  
24 that in each one of those areas where you can  
25 see an appreciable difference, that your

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1 company was distributing in those areas,  
2 correct?  
3 A. We distribute, again,  
4 nationwide.  
5 Q. And then in 2005, you start  
6 seeing -- do you -- can you -- it may just be  
7 me, but do you start seeing there's even an  
8 expansion between New Mexico and California,  
9 that it seems to be more and more growing in  
10 those areas on the West Coast?  
11 Do you see that expansion, sir?  
12 If you don't, it might just be  
13 my imagination, but it looks like there's an  
14 expansion of human death between New Mexico  
15 and California.  
16 MS. HENN: Objection to form.  
17 QUESTIONS BY MR. PAPANTONIO:  
18 Q. Correct?  
19 A. I can see the shading  
20 differences, yeah.  
21 Q. Yeah.  
22 And also, if you take -- take a  
23 close look around. Look around where West  
24 Virginia is. You see we started off with  
25 just kind of that brown area and then we had

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1 blue? You see the tan that's expanding?  
2 MR. PAPANTONIO: Could you put  
3 a circle around that, Corey?  
4 QUESTIONS BY MR. PAPANTONIO:  
5 Q. You see how that's expanding?  
6 Even right around West Virginia there's an  
7 expansion area there?  
8 A. I do.  
9 Q. Okay. In -- after we're done  
10 with this, I'm going to be talking about some  
11 areas in West Virginia that were affected.  
12 We've talked about Landover and  
13 Lakeland and Aurora, Salt Lake City. There's  
14 some areas we haven't talked about, and I  
15 want to talk to you about West Virginia.  
16 And do you know approximately  
17 where the pharmacy -- do you know where  
18 Kermit, West Virginia, is there?  
19 A. I don't know its exact location  
20 in West Virginia, but --  
21 Q. You're familiar with what  
22 happened in Kermit?  
23 A. I am.  
24 Q. Okay. We'll talk about that in  
25 just a minute, but let's go through this map.

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1 Okay. The next one is 2006.  
2 Do you have any kind of  
3 appreciation in what the expansion of human  
4 death was in 2006 when you compare it to  
5 2000 -- to 1999?  
6 MS. HENN: Objection to form.  
7 THE WITNESS: Again, it  
8 continues to expand.  
9 QUESTIONS BY MR. PAPANTONIO:  
10 Q. Yeah. If I see some and you  
11 don't see it, feel free to tell me. I say,  
12 you know, I may be seeing something that you  
13 don't see, and that's fair enough. We see  
14 things different.  
15 But do you see where even that  
16 area around West Virginia is continuing to  
17 expand as far as human death?  
18 MS. HENN: Objection to form.  
19 QUESTIONS BY MR. PAPANTONIO:  
20 Q. I'm in 2006.  
21 A. Oh, in 2006?  
22 Q. Yes, sir.  
23 A. Yeah.  
24 Q. When you make that comparison,  
25 can you tell an appreciable difference in the

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1 expansion even beyond 2005?  
2 A. I can see a difference, a few  
3 more counties shaded different colors.  
4 Q. Yes, sir.  
5 Okay. And as we go forward --  
6 let's continue. 2007, you see an expansion  
7 there, don't you? Look at that West Virginia  
8 area.  
9 MR. PAPANTONIO: Circle that  
10 West Virginia area for me, would you,  
11 Corey? And then also circle that  
12 brown area out west.  
13 Do you know where that is? See  
14 that big brown area out west next  
15 to -- see that? There you go.  
16 QUESTIONS BY MR. PAPANTONIO:  
17 Q. Did you have -- you had  
18 distribution sites in each -- each area  
19 that's circled there, you had distribution  
20 sites, right?  
21 A. We do.  
22 Q. Okay. And you know what? Just  
23 for matter of time, let's go ahead -- let me  
24 just go ahead and show you what -- let me  
25 show you what 2016 looks like.

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1 MR. PAPANTONIO: How about  
2 putting up 2006 for me, would you?  
3 And what I'd like to you do if  
4 you could -- is there any way I could  
5 get a comparison between 2016 and a  
6 comparison between 2009 up on the  
7 screen? Okay.  
8 QUESTIONS BY MR. PAPANTONIO:  
9 Q. Do you see a difference between  
10 19 -- excuse me, 1999 and 2016? You see  
11 how -- 2016 is the expansion of human death  
12 in the United States.  
13 A. Clearly I see the difference.  
14 MS. HENN: Objection to form.  
15 QUESTIONS BY MR. PAPANTONIO:  
16 Q. You see a clear difference  
17 there.  
18 And not only that, but do you  
19 also appreciate the fact that of the brown  
20 area that has expanded, it is -- that's area  
21 that is 30 -- that brown area is 30 human  
22 lives per every 100,000 people and -- you see  
23 that?  
24 A. I do.  
25 Q. And, sir, I'm not suggesting

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1 this is -- what year did you get with the  
2 company?  
3 A. 2014.  
4 Q. And it appears to me that what  
5 you did when you came to the company is you  
6 did -- you did due diligence on what had  
7 occurred before you got there. As I listened  
8 to your testimony this morning, it sounded  
9 like you actually did due diligence to figure  
10 out how you could do your job, correct?  
11 MS. HENN: Objection to form.  
12 THE WITNESS: Yes, and I had a  
13 previous job in which I was doing -- I  
14 was focused on diversion and these  
15 trends as well.  
16 QUESTIONS BY MR. PAPANTONIO:  
17 Q. But you feel like there were  
18 certain things that my partner went through  
19 with you, some of those documents that nobody  
20 had ever shown to you; is that a fair  
21 statement?  
22 MS. HENN: Objection to form.  
23 THE WITNESS: There were a few  
24 that I hadn't seen.  
25

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1 QUESTIONS BY MR. PAPANTONIO:  
2 Q. Yeah.  
3 And in order for you to do your  
4 job properly, sir, isn't it true that you  
5 have to have information? Correct?  
6 In order for you to do your  
7 job, the people -- you have to know what  
8 happened with the people that came before  
9 you, correct?  
10 A. That's part of it, correct.  
11 Q. What did they do is the point.  
12 And I had the sense that you did that before  
13 you got to the company, true?  
14 MS. HENN: Objection to form.  
15 THE WITNESS: Mostly while in  
16 my early stages of the company where I  
17 could ask questions and learn.  
18 QUESTIONS BY MR. PAPANTONIO:  
19 Q. Yes, sir.  
20 All right. The -- we talked  
21 about -- earlier we talked about a hierarchy,  
22 and I think it was on -- I think it was on  
23 document 7 -- well, it was number 41. If you  
24 look at 41, my partner, Troy, went over  
25 details about what the hierarchy is with the

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1 company. And it -- 795 is my document, but I  
2 think it was marked as 41.  
3 Well, let me just ask you --  
4 you don't have to go there. It's okay. I  
5 can just ask you.  
6 The structure is Nate Hartle  
7 would be senior director. Underneath you  
8 would be Michael Oriente and a guy named  
9 Micheal Bishop and Jay Es -- what is it,  
10 Espailat?  
11 A. Espailat.  
12 Q. Espailat.  
13 And then you've got another  
14 one, Adam Palmer.  
15 A. Palmer, right.  
16 Q. As a matter of fact, when you  
17 got there to the company, you took a look at  
18 some of these folks that were in charge of  
19 trying to make sure that -- well, you took a  
20 look at the performance of some of these  
21 other people that were working under you,  
22 right?  
23 MS. HENN: Objection to form.  
24 THE WITNESS: I did as I built  
25 the team.

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1 QUESTIONS BY MR. PAPANTONIO:  
2 Q. Okay. And one thing that  
3 you --  
4 MR. PAPANTONIO: Would you put  
5 up -- would you put up photograph --  
6 this is -- this is a photograph of  
7 Mr. Oriente, and I'm putting it up  
8 there because the jury has seen his  
9 deposition, and I just want to make  
10 sure they know we're talking about the  
11 same person.  
12 Put up 1557, please.  
13 MS. HENN: And, Counsel, could  
14 you please mark it for the record, a  
15 demonstrative?  
16 MR. PAPANTONIO: Yeah, we'll  
17 mark it as a demonstrative. What is  
18 it?  
19 Okay. Well, excuse me, 1627.  
20 1627. Could you put that up on the  
21 screen?  
22 MS. HENN: Will you please mark  
23 it with a sticker?  
24 MR. PAPANTONIO: We will mark  
25 it. We will mark it.

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1 MS. MOORE: McKesson-Hartle  
2 149.  
3 (McKesson-Hartle Exhibit 149  
4 marked for identification.)  
5 QUESTIONS BY MR. PAPANTONIO:  
6 Q. That fellow worked for you,  
7 didn't he?  
8 A. He works for me, correct.  
9 Q. And he worked at a place -- you  
10 remember all of the discussion about Landover  
11 that you had with my partner today?  
12 A. Correct.  
13 Q. That's where he was -- he was  
14 director of Landover --  
15 MS. HENN: Objection to form.  
16 QUESTIONS BY MR. PAPANTONIO:  
17 Q. -- right? That was a  
18 distribution center.  
19 A. Right.  
20 Q. He was a director of Landover,  
21 correct?  
22 A. He was in that facility, yes.  
23 Q. Yeah.  
24 And he was the head guy in  
25 charge in Landover, true, or were you also

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1 involved with Landover?  
2 MS. HENN: Objection to form.  
3 THE WITNESS: I was not.  
4 QUESTIONS BY MR. PAPANTONIO:  
5 Q. Yeah, Landover had already been  
6 closed by the time you got there to the  
7 company, right?  
8 A. Yes.  
9 Q. And it was closed, sir, because  
10 there were so many violations of law that  
11 were coming out of Landover.  
12 MS. HENN: Objection to form.  
13 QUESTIONS BY MR. PAPANTONIO:  
14 Q. You know that it was closed in  
15 2012 because of that, right?  
16 MS. HENN: Objection to form.  
17 THE WITNESS: I know that it  
18 was closed.  
19 QUESTIONS BY MR. PAPANTONIO:  
20 Q. It was closed 2012, right?  
21 A. If that's the specific time  
22 frame before I got there.  
23 Q. Yeah. Yes, sir, it's 2012.  
24 And this guy, this Oriente who  
25 we're looking at right here, he was the one

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1 in charge of making the decisions about the  
2 sale of narcotics from your company to  
3 pharmacies in the Landover -- I mean, out of  
4 the Landover facility, right?  
5 MS. HENN: Objection to form.  
6 THE WITNESS: I believe that's  
7 true.  
8 QUESTIONS BY MR. PAPANTONIO:  
9 Q. And after it was closed, where  
10 did you -- where did he go, do you know?  
11 MS. HENN: Objection to form.  
12 THE WITNESS: He became a  
13 director of regulatory affairs.  
14 QUESTIONS BY MR. PAPANTONIO:  
15 Q. Okay. And could you -- I'm  
16 sorry, go ahead.  
17 A. He was a director of regulatory  
18 affairs. He ultimately came to the RNA team.  
19 Q. He's still there. He's still  
20 there, isn't he?  
21 A. He is.  
22 Q. He's still making decisions  
23 about the sale of narcotics to people all  
24 over this country, right? True?  
25 MS. HENN: Objection to form.

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1 THE WITNESS: He performs due  
2 diligence and makes threshold  
3 decisions, yes.  
4 QUESTIONS BY MR. PAPANTONIO:  
5 Q. And you've got a lot of  
6 confidence in his ability to do that, right?  
7 A. I do have confidence in his  
8 ability.  
9 Q. Why do you have so much  
10 confidence in his ability?  
11 Good integrity? Do you think  
12 he has good integrity?  
13 A. I believe so.  
14 Q. How about Bishop, good  
15 integrity?  
16 MS. HENN: Objection to form.  
17 THE WITNESS: I know we'll talk  
18 about Bishop before. I've --  
19 performance -- did some performance  
20 management with him.  
21 QUESTIONS BY MR. PAPANTONIO:  
22 Q. Good integrity?  
23 Integrity matters in your  
24 company, doesn't it?  
25 MS. HENN: Objection to form.

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1 THE WITNESS: It does.  
2 QUESTIONS BY MR. PAPANTONIO:  
3 Q. Don't you even have -- don't  
4 you even have little jingle about integrity?  
5 What is -- some kind of mission statement.  
6 Do you know what it is?  
7 MS. HENN: Objection to form.  
8 QUESTIONS BY MR. PAPANTONIO:  
9 Q. What is that mission statement  
10 about integrity?  
11 A. The ICARE principles.  
12 Q. ICARE, that's right.  
13 And ICARE, the first thing in  
14 it is integrity, right?  
15 A. Right.  
16 Q. And integrity really matters  
17 when you're dealing with narcotics, the sale  
18 of narcotics, around the country. That's  
19 pretty important, isn't it?  
20 A. It is.  
21 Q. And as a matter of fact, it's  
22 such -- it is such part of your mission  
23 statement that you actually put it on your  
24 documents, the -- what do you call it? I  
25 what?



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1 A. It's called ICARE.  
2 Q. ICARE.  
3 And it's called the ICARE  
4 program, and that's the mission statement for  
5 your company, right?  
6 MS. HENN: Objection to form.  
7 QUESTIONS BY MR. PAPANTONIO:  
8 Q. It's important, isn't it?  
9 A. It's important.  
10 Q. Because if integrity starts  
11 failing, then you have people that might be  
12 out there breaking the law with narcotics,  
13 correct?  
14 MS. HENN: Objection to form.  
15 THE WITNESS: It's a  
16 possibility you could have people  
17 breaking the law, but I wouldn't  
18 characterize it that way. Integrity  
19 is absolutely important.  
20 QUESTIONS BY MR. PAPANTONIO:  
21 Q. All right. And so --  
22 A. That's why --  
23 Q. I'm sorry, go ahead. Are you  
24 finished?  
25 A. We'll talk about it later, I'm

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1 sure.  
2 Q. Well, let's go ahead and talk  
3 about it right now, okay?  
4 You actually --  
5 MR. PAPANTONIO: Could you put  
6 up -- could you put up 1564?  
7 You're going to have mark that  
8 for them. It's 1564, and I don't know  
9 what exhibit list -- what the number  
10 is going to be.  
11 (McKesson-Hartle Exhibit 161  
12 marked for identification.)  
13 QUESTIONS BY MR. PAPANTONIO:  
14 Q. Why do you --  
15 MS. MOORE: McKesson-Hartle  
16 161.  
17 QUESTIONS BY MR. PAPANTONIO:  
18 Q. Let me say something clear  
19 here. I'm not questioning your integrity --  
20 A. Right.  
21 Q. -- okay, just so you know that.  
22 But you have to evaluate people  
23 who work with you, don't you?  
24 A. I do.  
25 Q. And if there's a weak link,

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1 that weak link, if it's in the northern  
2 United States or if the weak link is the  
3 western United States, that weak link has an  
4 impact on whether or not dangerous narcotics  
5 can be wrongfully diverted in this country,  
6 true, if people aren't doing their job?  
7 MS. HENN: Objection to form.  
8 THE WITNESS: Could you  
9 rephrase that, please?  
10 QUESTIONS BY MR. PAPANTONIO:  
11 Q. Yes, sir.  
12 If -- you have to evaluate  
13 whether people are doing their job in your  
14 role? I mean, you're top of the food chain,  
15 aren't you?  
16 MS. HENN: Objection to form.  
17 THE WITNESS: I have to  
18 evaluate people, certainly.  
19 QUESTIONS BY MR. PAPANTONIO:  
20 Q. Yeah. And you try to do it  
21 honestly --  
22 A. I do.  
23 Q. -- right?  
24 Because you try to evaluate  
25 those people according to what your mission

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1 statement is, I take it?  
2 A. I do.  
3 Q. Okay. Well, let's look at this  
4 evaluation. This is -- this is employee  
5 Micheal Bishop.  
6 Do you see that?  
7 A. I do.  
8 Q. First paragraph says, "Micheal  
9 Bishop" -- and tell me again, what does  
10 Micheal Bishop do?  
11 A. He's a regulatory affairs  
12 manager.  
13 Q. Yeah.  
14 And he was fired from the  
15 company, right?  
16 A. He was not.  
17 Q. He wasn't fired?  
18 A. He left on his own.  
19 Q. Would you have fired him?  
20 Given the chance, would you  
21 have fired Micheal Bishop?  
22 MS. HENN: Objection to form.  
23 QUESTIONS BY MR. PAPANTONIO:  
24 Q. You were his manager.  
25 Would you have fired Micheal

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1 Bishop because of his conduct?  
2 MS. HENN: Objection to form.  
3 QUESTIONS BY MR. PAPANTONIO:  
4 Q. Before we go into this.  
5 A. I will explain once we get into  
6 it the performance improvement plan process,  
7 and that is the likely outcome that was going  
8 to happen.  
9 Q. Would you have fired him?  
10 A. Yes.  
11 Q. Okay. That's what I'm  
12 wondering.  
13 And how long was he with the  
14 company?  
15 A. 15 years or so.  
16 Q. And that was mostly before you  
17 got there, to be -- you know, let's be clear  
18 about it.  
19 A. Right.  
20 Q. He was there before you were  
21 there?  
22 A. Right.  
23 Q. He was doing things,  
24 distributing in his job in distribution, that  
25 you had nothing to do with. Can we agree to

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1 that?  
2 MS. HENN: Objection to form.  
3 QUESTIONS BY MR. PAPANTONIO:  
4 Q. Before you got there,  
5 obviously.  
6 A. Absolutely.  
7 Q. All right. So you took a look  
8 at Micheal Bishop. It says, "Micheal Bishop  
9 has not been meeting expectations in his  
10 position as a regulatory affairs manager.  
11 Micheal has not demonstrated the expected  
12 level of accuracy, quality of work or  
13 understanding of the program needed in his  
14 role." That's the first sentence.  
15 Now, I want to go to a couple  
16 parts here because I want to ask you a  
17 specific question about a couple of parts.  
18 A. Okay.  
19 Q. If you go down to the bottom of  
20 the -- the bottom of that page, Mr. Hartle,  
21 it says, "The regular feedback has continued  
22 to be in the area of accuracy/quality of  
23 work, communication, critical thinking and  
24 accountability."  
25 You would agree that every one

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1 of those things are vitally important when a  
2 person's making a decision about the  
3 distribution drugs -- of narcotic drugs in  
4 this country. That's important, isn't it?  
5 MS. HENN: Objection to form.  
6 QUESTIONS BY MR. PAPANTONIO:  
7 Q. Every one of those things are  
8 important.  
9 In a minute, you know what I'm  
10 going to do? I'm going to let you say what  
11 you want to say, but how about staying with  
12 me, just let me ask you some questions.  
13 A. I will. I will say that that  
14 is important.  
15 Q. Okay.  
16 A. But I do want to clarify one  
17 thing, and I'll explain more later.  
18 Q. That's okay. I don't -- I want  
19 you to explain it.  
20 A. He did not have the  
21 decision-making authority during this time --  
22 Q. Okay. Let me talk --  
23 A. -- to make decisions.  
24 Q. Let me talk some more. Okay?  
25 A. Okay.

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1 Q. It says, "I have discussed with  
2 Micheal the importance of his work being  
3 accurate because of the risk associated with  
4 the setting of regulatory thresholds."  
5 Do you see that?  
6 A. I do.  
7 Q. He was in charge of regulatory  
8 thresholds, wasn't he?  
9 MS. HENN: Objection to form.  
10 THE WITNESS: He played a role  
11 in pulling information and data.  
12 QUESTIONS BY MR. PAPANTONIO:  
13 Q. Right.  
14 And that's what my partner,  
15 Troy Rafferty, has been asking you about all  
16 morning?  
17 A. Right.  
18 Q. Even things that you didn't  
19 have anything to do with, but he's been  
20 asking you questions about regulatory  
21 threshold because that's so vitally  
22 important, right?  
23 MS. HENN: Objection to form.  
24 THE WITNESS: We did have those  
25 conversations.

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1 QUESTIONS BY MR. PAPANTONIO:  
2 Q. Yes, sir.  
3 And so -- so here we see that  
4 we got a guy that you agree should have been  
5 fired. When -- he should have been fired  
6 years ago, before -- before you did this. He  
7 should have been fired a long time ago,  
8 right?  
9 MS. HENN: Objection to form.  
10 THE WITNESS: I can't say that  
11 exactly.  
12 QUESTIONS BY MR. PAPANTONIO:  
13 Q. Okay. Well, you don't have to  
14 say it. I'm just asking the question, and  
15 you feel free to respond to the question.  
16 It says -- the next page, if  
17 you go to it, it says -- it says down at the  
18 bottom of that second page: "After being on  
19 the team for almost three years, Micheal has  
20 not demonstrated a complete understanding of  
21 the CSMP, and he continued to make basic  
22 mistakes or inaccurately communicate routine  
23 processes or requirements."  
24 Correct?  
25 MS. HENN: Objection to form.

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1 QUESTIONS BY MR. PAPANTONIO:  
2 Q. Do you see that down at the  
3 bottom?  
4 A. I see it.  
5 Q. Okay. Then we go to the next  
6 one. It says -- next page, middle of the  
7 page, it says, "Immediately after the issue  
8 was identified, he admitted to his failure to  
9 review the data on a team call. He changed  
10 the IR to remove any information about his  
11 role with the data review."  
12 Do you see that?  
13 MS. HENN: Let's just have that  
14 read back or if you could repeat it,  
15 please, because we're having --  
16 MR. PAPANTONIO: Yeah, it  
17 says -- I feel like I'm in a clown car  
18 here. Okay?  
19 MS. HENN: Thank you, sir.  
20 QUESTIONS BY MR. PAPANTONIO:  
21 Q. It says, "Immediately after the  
22 issue was identified and he admitted to his  
23 failure to review the data on a team call, he  
24 changed the IR."  
25 What is the IR?

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1 A. Investigative report.  
2 Q. Yeah. He actually changed it,  
3 didn't he?  
4 A. He did.  
5 Q. He changed it.  
6 And that's unlawful to do that.  
7 That's breaking the law, correct?  
8 MS. HENN: Objection to form.  
9 QUESTIONS BY MR. PAPANTONIO:  
10 Q. That's actually breaking the  
11 law. He can't go changing reports like that,  
12 can he?  
13 MS. HENN: Objection to form.  
14 THE WITNESS: I wouldn't  
15 characterize that as breaking the law.  
16 QUESTIONS BY MR. PAPANTONIO:  
17 Q. Yeah, if he --  
18 A. I mean, he had an explanation  
19 that he talked through in terms of what he  
20 thought he was doing.  
21 Q. Right.  
22 But if he did it and you  
23 question his integrity, that's a problem,  
24 isn't it?  
25 A. That's why I was holding him

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1 accountable.  
2 Q. Okay. And he said he "changed  
3 the IR to remove any information about his  
4 role with the data review," right?  
5 That's what it says, right?  
6 A. That's what it says.  
7 Q. And then if we go to -- I'm not  
8 done with Micheal Bishop, so stay with me  
9 just a minute here.  
10 MR. PAPANTONIO: Show them,  
11 please, 1579.  
12 QUESTIONS BY MR. PAPANTONIO:  
13 Q. Now, I want to -- you  
14 understand before you got -- before you got  
15 to McKesson, there was a lot of water under  
16 the bridge about the sale of narcotics all  
17 over the country. There had been a lot of  
18 things that occurred with the company in the  
19 sale of narcotics --  
20 A. Right.  
21 Q. -- true?  
22 MS. HENN: Objection to form.  
23 QUESTIONS BY MR. PAPANTONIO:  
24 Q. Matter of fact, you weren't  
25 there in 2008 when they were punished for

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1 not -- for breaking the law. They were  
2 punished for not reporting suspicious orders.  
3 You weren't there when that  
4 happened, right?  
5 MS. HENN: Objection to form.  
6 THE WITNESS: I was not there.  
7 QUESTIONS BY MR. PAPANTONIO:  
8 Q. But Mr. Bishop was, wasn't he?  
9 A. He was.  
10 Q. Yeah. And Mr. Oriente was,  
11 wasn't he?  
12 A. He was.  
13 Q. Okay. Let's go on to this --  
14 MS. MOORE: McKesson-Hartle  
15 162.  
16 (McKesson-Hartle Exhibit 162  
17 marked for identification.)  
18 QUESTIONS BY MR. PAPANTONIO:  
19 Q. And, sir, here, this is Micheal  
20 Bishop, and again, you're doing your job  
21 here, correct? You're trying to evaluate  
22 this person and say, you know, "What kind of  
23 job are they doing. Do we need them around  
24 here," right?  
25 A. Correct.

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1 Q. All right. So it says,  
2 "Micheal Bishop started with regulatory  
3 affairs as a manager in the fall of 2014."  
4 It goes, "At the time" -- I'm  
5 sorry. I'm right here right now. I'm in the  
6 middle of the second paragraph.  
7 "At the same time, I was taking  
8 on more responsibility for the larger  
9 regulatory affairs team, so in the fall  
10 of 2016 we changed reporting relationships.  
11 In partnership with my SVP and HR partner, we  
12 moved Micheal Bishop over to become a direct  
13 report of DRA Michael Oriente."  
14 Was that a move up for Bishop?  
15 A. No. No.  
16 Q. Okay. But he was working with  
17 Oriente, correct, Michael Oriente?  
18 A. He was.  
19 Q. So he would have been working  
20 in Landover? Landover? Was he working  
21 Landover?  
22 A. No.  
23 MS. HENN: Objection to form.  
24 THE WITNESS: No. No.  
25

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1 QUESTIONS BY MR. PAPANTONIO:  
2 Q. Okay. So then we go -- down  
3 here at the bottom it says, "Our continued  
4 concerns were related to accuracy" -- do you  
5 see that? -- "quality of work, communication,  
6 listening, thinking before he acts, a lack of  
7 understanding our core CSMP basics, and  
8 taking accountability to his actions."  
9 It says, "More recently I have  
10 continued to question Micheal's integrity, as  
11 many times during the conversation or team  
12 calls he deflects blame to others. He rarely  
13 takes accountability for his actions, and he  
14 often shares conflicting messages to his --  
15 or changes his story. Recently an issue  
16 surfaced where we know he falsified a company  
17 document to hide a mistake, and he made our  
18 nonexempt team member uncomfortable."  
19 Now, let me stop right there.  
20 You wrote this report so somebody up above  
21 you could review it, right?  
22 You didn't write this for  
23 yourself, did you?  
24 MS. HENN: Objection to form.  
25

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1 QUESTIONS BY MR. PAPANTONIO:  
2 Q. You wanted somebody else in  
3 management to take a look at this report,  
4 didn't you?  
5 MS. HENN: Objection to form.  
6 THE WITNESS: I wrote it for  
7 both. I wrote it to document as I had  
8 been coaching him --  
9 QUESTIONS BY MR. PAPANTONIO:  
10 Q. Right.  
11 A. -- and holding him accountable,  
12 and I also wrote it to be able to share with  
13 our employee relations teams and --  
14 Q. Right.  
15 A. -- as I escalated issues.  
16 Q. And so you wanted management to  
17 understand what kind of person they'd had out  
18 there on the field for -- how many years was  
19 it he was on the field?  
20 MS. HENN: Objection to form.  
21 QUESTIONS BY MR. PAPANTONIO:  
22 Q. How many years?  
23 A. About 15, but he was located in  
24 a centralized -- he wasn't in the field. He  
25 was in a centralized headquarters-like office



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1 down in Texas.  
2 Q. Oh, he was in headquarters?  
3 A. He was in a location down in  
4 Texas that was a headquarters-like location.  
5 Q. All right. So tell me, after  
6 you talked about his lack of integrity, how  
7 long did Micheal -- how long did Mr. Bishop  
8 stick around?  
9 MS. HENN: Objection to form.  
10 QUESTIONS BY MR. PAPANTONIO:  
11 Q. How many years? How many years  
12 did he stay with McKesson after that report  
13 was written about his integrity?  
14 MS. HENN: Objection to form.  
15 THE WITNESS: That happened in  
16 2017, and he left in early 2018.  
17 QUESTIONS BY MR. PAPANTONIO:  
18 Q. And did you recommend that he  
19 leave?  
20 A. When he left?  
21 Q. Yeah.  
22 A. He left on his own, but I had  
23 recommended that in another couple weeks when  
24 the performance period ran out that we would  
25 terminate his employment.

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1 Q. And then -- so you made the  
2 recommendation he be fired, right?  
3 A. That's where it was heading.  
4 Q. But he had been there 15 years  
5 prior to that time?  
6 A. Correct.  
7 Q. And so in those 15 years -- did  
8 you go back and review any work that he had  
9 done in 15 years to see whether there was a  
10 pattern to him raising thresholds  
11 inappropriately or failing to write  
12 suspicious orders inappropriately or  
13 distributing areas in excess of volume?  
14 Did you go back and find out  
15 how much damage, if any, Mr. Bishop had done  
16 throughout the United States?  
17 MS. HENN: Objection to form.  
18 THE WITNESS: He wasn't in the  
19 regulatory affairs department prior to  
20 that.  
21 QUESTIONS BY MR. PAPANTONIO:  
22 Q. Yeah.  
23 A. So I did not go back.  
24 Q. What was he doing prior to  
25 that?

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1 A. He was on a variety of  
2 different teams.  
3 Q. Was he in sales?  
4 A. He was on a centralized support  
5 function. It wasn't sales.  
6 Q. Supporting sales, though,  
7 right? He was supporting a sales  
8 organization that sold all over the United  
9 States, correct?  
10 MS. HENN: Objection to form.  
11 QUESTIONS BY MR. PAPANTONIO:  
12 Q. Yes?  
13 A. Technically he was in a  
14 support.  
15 Q. Yeah.  
16 So he was one of the people  
17 that were -- that were technically supporting  
18 the -- technically supporting the sales force  
19 in the United States for McKesson, correct?  
20 MS. HENN: Objection to form.  
21 QUESTIONS BY MR. PAPANTONIO:  
22 Q. Yes?  
23 A. He was supporting different  
24 components of the broader organization.  
25 Q. All right. Well, let's -- you

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1 were asked earlier about -- I don't know what  
2 this is. It's this map. It's 88 -- mine is  
3 872. It's the McKesson --  
4 MR. PAPANTONIO: What was that  
5 actually marked?  
6 MS. MOORE: McKesson-Hartle 100  
7 is his copy.  
8 MR. PAPANTONIO: Okay. This is  
9 McKesson-Hartle 100.  
10 (McKesson-Hartle Exhibit 100  
11 marked for identification.)  
12 QUESTIONS BY MR. PAPANTONIO:  
13 Q. Sir, I was -- I listened to you  
14 when you said that you thought there was a  
15 responsibility to know what's going on  
16 news-wise around the country. If you know  
17 what a reporter is saying about a particular  
18 area, that's important information to you,  
19 and I think you said -- you explained that to  
20 my partner. You said, yes, that's important;  
21 yes, I keep up with it; no, I can't tell you  
22 what everybody else does, but I do. That's I  
23 think what you said.  
24 A. Correct.  
25 Q. If I didn't characterize that

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1 right --  
2 MS. HENN: Objection to form.  
3 QUESTIONS BY MR. PAPANTONIO:  
4 Q. Right?  
5 A. Yeah, as part of my entire  
6 career, I want to stay in tune with --  
7 Q. And you saw where my partner  
8 actually showed you that you were doing what  
9 the DEA told you to do, which was to stay  
10 abreast of what the newspaper reports are in  
11 any given area about problems that there may  
12 be with opioids.  
13 MS. HENN: Objection to form.  
14 QUESTIONS BY MR. PAPANTONIO:  
15 Q. Do you remember that section  
16 that he showed you where the DEA said this is  
17 something you should do?  
18 A. Correct.  
19 Q. Okay. So did you know to do  
20 that because the DA directed you -- DEA  
21 directed you or did you just think that was a  
22 good idea to stay abreast of what was going  
23 on with news reports from around the country?  
24 MS. HENN: Objection to form.  
25 THE WITNESS: That's what I do

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1 as part of my information gathering.  
2 QUESTIONS BY MR. PAPANTONIO:  
3 Q. Okay. Explain to the jury,  
4 because this might be the first time they  
5 hear this. Explain to the jury why that  
6 information gathering of staying abreast of  
7 what newspaper articles are reporting might  
8 be important.  
9 Go ahead, Mr. Hartle.  
10 A. Okay. Could you ask that  
11 question again?  
12 Q. Yes, sir.  
13 Explain to the jury, if you  
14 would, why this process that -- I don't want  
15 to judge whether you did it on your own or  
16 whether the DEA told you to do it, but this  
17 process of where you think gathering  
18 information from news sources is important.  
19 Explain to them why that's important.  
20 MS. HENN: Objection to form.  
21 THE WITNESS: It's important to  
22 help understand the landscape, what's  
23 going on, different -- different  
24 information you can gain to help you  
25 better run your program or better

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1 understand what's happening.  
2 QUESTIONS BY MR. PAPANTONIO:  
3 Q. Yes, sir. Okay. Good.  
4 As a matter of fact, in this  
5 document you have in front of you, if you  
6 will take a look at it -- by the way, did  
7 you -- did you have anything to do in  
8 preparing this document?  
9 Does this look like something  
10 you prepared? It's a McKesson document.  
11 A. I did not prepare this. When I  
12 came on board, it was being used and shared,  
13 and I used --  
14 Q. Okay.  
15 A. -- versions of that with  
16 chains.  
17 Q. And as a matter of fact, this  
18 document actually reiterated what you, I  
19 think -- from what I'm understanding what  
20 you're saying, this document reiterated what  
21 you were doing on your own, and that is  
22 seeking out information in various news  
23 sources to find out what's going on in the  
24 country.  
25 This document -- if you'll go

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1 to .3. See that .3 there? You see it  
2 actually goes -- it actually does what you're  
3 talking about. This document actually is a  
4 presentation that's being made to somebody  
5 through McKesson.  
6 Do you know who this  
7 presentation would be made to?  
8 MS. HENN: Objection to form.  
9 QUESTIONS BY MR. PAPANTONIO:  
10 Q. Would it be salespeople?  
11 MS. HENN: Objection to form.  
12 THE WITNESS: I think it was  
13 used in a variety of ways. I know it  
14 was given to, you know, our chain  
15 partners. I've given part of this  
16 presentation, versions of it, to  
17 external partners as well.  
18 QUESTIONS BY MR. PAPANTONIO:  
19 Q. Okay. And one thing -- I'm  
20 sorry, external partners would be your chain  
21 partners?  
22 A. Chain partners, sure.  
23 Q. Okay. Those are people you  
24 sold to, just so the jury understands. Those  
25 are your customers?

<p style="text-align: right;">Page 394</p> <p>1 A. Customers.</p> <p>2 Q. All right. And so in there,</p> <p>3 you actually -- this is -- whether you</p> <p>4 accomplished this -- I don't know whether you</p> <p>5 accomplished it or not, but this document</p> <p>6 actually goes -- and it actually says,</p> <p>7 "Current Landscape." You see at the top of</p> <p>8 it, "Current Landscape, Epidemic." And then</p> <p>9 it says, "Every component of the distribution</p> <p>10 chain has been breached."</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. That's McKesson saying that,</p> <p>14 and this is what you would talk about when</p> <p>15 you would make presentations. You personally</p> <p>16 would talk about these very things we're</p> <p>17 about to talk about.</p> <p>18 MS. HENN: Objection to form.</p> <p>19 QUESTIONS BY MR. PAPANTONIO:</p> <p>20 Q. "Every component of the</p> <p>21 distribution chain has been breached."</p> <p>22 Do you see that?</p> <p>23 A. Yeah, exactly.</p> <p>24 Q. Okay. And you see the</p> <p>25 newspaper articles underneath there?</p>	<p style="text-align: right;">Page 396</p> <p>1 I mean, they drive around in</p> <p>2 the areas where they live, right?</p> <p>3 A. True.</p> <p>4 MS. HENN: Objection to form.</p> <p>5 QUESTIONS BY MR. PAPANTONIO:</p> <p>6 Q. I mean, we're just using logic</p> <p>7 here. But if you have a salesperson on</p> <p>8 the -- you've got a -- you've got a</p> <p>9 salesperson here on the -- on the ground,</p> <p>10 that salesperson is driving around the City</p> <p>11 of Kermit, if that's who they're servicing,</p> <p>12 correct?</p> <p>13 In other words, they live</p> <p>14 there. They live in that area, right?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 THE WITNESS: Or near there,</p> <p>17 yes.</p> <p>18 QUESTIONS BY MR. PAPANTONIO:</p> <p>19 Q. Or near. They live there or</p> <p>20 near there.</p> <p>21 So if they're driving in the</p> <p>22 area in a place like Kermit -- and we're</p> <p>23 going to talk about Kermit in just a minute.</p> <p>24 But they're able to actually see the</p> <p>25 newspapers -- let's talk about what they can</p>
<p style="text-align: right;">Page 395</p> <p>1 A. I do.</p> <p>2 Q. Okay. The -- here's what --</p> <p>3 here's what I want to be clear about, because</p> <p>4 I'm not -- it's just not clear to me as I</p> <p>5 listened to everything. Maybe you can clear</p> <p>6 this up.</p> <p>7 If you've got -- let's say</p> <p>8 you've got -- let's get Kermit.</p> <p>9 MR. PAPANTONIO: Can I get this</p> <p>10 thing on here just -- we're going to</p> <p>11 go back to that same document.</p> <p>12 QUESTIONS BY MR. PAPANTONIO:</p> <p>13 Q. Here's Kermit.</p> <p>14 Now, salespeople for McKesson</p> <p>15 you have on the ground around, say, Kermit,</p> <p>16 West Virginia, correct? They live around the</p> <p>17 area, true?</p> <p>18 A. We have sales --</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: -- sales teams</p> <p>21 out in the field.</p> <p>22 QUESTIONS BY MR. PAPANTONIO:</p> <p>23 Q. Yes, sir.</p> <p>24 And one thing they do is they</p> <p>25 drive around in various areas, true?</p>	<p style="text-align: right;">Page 397</p> <p>1 accomplish.</p> <p>2 A, they can see the news, true?</p> <p>3 And that's what you've been talking about,</p> <p>4 the news is important, true?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 THE WITNESS: True.</p> <p>7 QUESTIONS BY MR. PAPANTONIO:</p> <p>8 Q. And they're able to see if --</p> <p>9 they're able to drive around and they -- my</p> <p>10 gosh, they see a pill mill, right? They see</p> <p>11 people standing outside a pill mill, right?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 QUESTIONS BY MR. PAPANTONIO:</p> <p>14 Q. I mean, if there's a pill mill</p> <p>15 there, they can see it, true?</p> <p>16 A. They could see that.</p> <p>17 Q. And as a matter of fact, the --</p> <p>18 you've actually seen pictures and actually</p> <p>19 you have given talks, I think, about what</p> <p>20 these pill mills look like, haven't you?</p> <p>21 You've actually seen pictures</p> <p>22 of what these pill mills look like, true?</p> <p>23 A. I have.</p> <p>24 Q. As a matter of fact, you have a</p> <p>25 pill mill -- let's draw a pill mill here.</p>

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1 A pill mill, you'll sometimes  
 2 see people actually lined up to get into the  
 3 pill mill sometimes at eight o'clock in the  
 4 morning, right?  
 5 A. You can see that. I've seen  
 6 pictures.  
 7 Q. Yeah.  
 8 And you see people in -- out in  
 9 the parking lot you'll see people and they  
 10 got -- they've got license tags from Texas,  
 11 and they got license tags from Florida.  
 12 They'll have license tags at a  
 13 pill mill from all over the country, won't  
 14 they? That's one of the things you look for  
 15 in a pill mill, right?  
 16 A. You can see that at times, yes.  
 17 Q. Yes, sir.  
 18 And the other thing at a pill  
 19 mill that this salesperson could ascertain  
 20 pretty quickly is whether there's -- whether  
 21 there's being cash exchanged in the mill; in  
 22 other words, are these people going and  
 23 buying these pills for cash?  
 24 They can ascertain that, right?  
 25 All they got to do is walk in.

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1 MS. HENN: Objection to form.  
 2 QUESTIONS BY MR. PAPANTONIO:  
 3 Q. That salesperson in the field  
 4 around the pill mill could see that firsthand  
 5 if they wanted to, true?  
 6 MS. HENN: Objection to form.  
 7 THE WITNESS: They could  
 8 potentially see that, yes.  
 9 QUESTIONS BY MR. PAPANTONIO:  
 10 Q. Yes, sir.  
 11 And so that really is one of  
 12 the responsibilities for -- and I'm coming  
 13 back to your theory, because I agree with you  
 14 on your theory and I'm going to talk to you  
 15 more about it.  
 16 The theory is that the person  
 17 in the field actually has a responsibility to  
 18 know the customer, know the entire area of  
 19 what he's selling, he or she is selling,  
 20 correct?  
 21 A. Correct.  
 22 Q. And if they observed all this,  
 23 they actually see all this going on, they  
 24 ought to report it, shouldn't they? If they  
 25 see pill mills taking place and they see

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1 people lined up around the pill mill at eight  
 2 o'clock in the morning, standing there in  
 3 their pajamas, with children, waiting to get  
 4 in, that's something they ought to report to  
 5 somebody, shouldn't they?  
 6 MS. HENN: Object to form.  
 7 QUESTIONS BY MR. PAPANTONIO:  
 8 Q. Yes?  
 9 A. They certainly should report  
 10 it.  
 11 Q. Yes, sir.  
 12 And in this trial, the jury is  
 13 going to hear about something called notice.  
 14 You ever heard that term? And that is,  
 15 notice is when your company is told,  
 16 "something's wrong here, and you ought to  
 17 take action on it."  
 18 You ever heard that term?  
 19 Maybe it's not a term you've heard, but I'm  
 20 just -- I'm curious, have you ever heard the  
 21 term?  
 22 MS. HENN: Objection to form.  
 23 QUESTIONS BY MR. PAPANTONIO:  
 24 Q. You're on notice that  
 25 something's wrong in Kermit.

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1 MS. HENN: Objection to form.  
 2 THE WITNESS: I've heard the  
 3 term "notice."  
 4 QUESTIONS BY MR. PAPANTONIO:  
 5 Q. Okay. You understand what it  
 6 is.  
 7 A. I do.  
 8 Q. Now, just because I've looked  
 9 at your file and I didn't see any time when  
 10 you were doing any kind of field work on the  
 11 ground where you were -- it was your  
 12 responsibility to observe pill mills, to  
 13 observe the news that was taking place in  
 14 these various counties all over the country.  
 15 I never saw where that was your  
 16 responsibility.  
 17 Is that a fair statement, or  
 18 did I miss is that?  
 19 I just reviewed your record.  
 20 MS. HENN: Objection.  
 21 QUESTIONS BY MR. PAPANTONIO:  
 22 Q. You were never a salesperson?  
 23 A. No, that's a fair statement.  
 24 Q. Okay. You went right up to  
 25 management in regulatory, correct?



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1 A. Correct.  
2 Q. But you're familiar with what  
3 these salespeople did, true?  
4 MS. HENN: Objection to form.  
5 THE WITNESS: I'm familiar with  
6 it.  
7 QUESTIONS BY MR. PAPANTONIO:  
8 Q. Okay. So let's mark that --  
9 MS. MOORE: McKesson-Hartle  
10 163.  
11 (McKesson-Hartle Exhibit 163  
12 marked for identification.)  
13 QUESTIONS BY MR. PAPANTONIO:  
14 Q. What I'm going to do here,  
15 if -- you might want to keep this document in  
16 front of you that I have here. I'm just  
17 going to go through these -- some of these  
18 articles that are here, sir.  
19 Okay?  
20 A. Okay.  
21 Q. I want to talk to you about  
22 them. And what I want to ask you about since  
23 they're all -- these articles that I'm going  
24 to go through are actually in your own -- not  
25 yours but your company's flyer that I'm

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1 showing you here right now, okay, the  
2 PowerPoint.  
3 So the first thing in there is  
4 a discussion about CDC. I think it's on the  
5 previous page. But you would agree that the  
6 CDC was an important source of information  
7 for your company. And I want to be careful I  
8 say something. I want to be careful of  
9 something.  
10 Anytime I say "you," I'm not  
11 talking about you, Mr. Hartle. I'm talking  
12 about your company. So don't be offended by  
13 that. Understand I'm talking about your  
14 company.  
15 Okay?  
16 A. Okay.  
17 Q. So anytime -- so you understand  
18 that one source of information that your  
19 company used was the CDC, right?  
20 A. Correct.  
21 Q. Yes?  
22 Okay. And as a matter of fact,  
23 that death map that we just went over, that  
24 was created by the CDC, correct, where we saw  
25 the progression of death from 1999 to -- yes,

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1 sir, that was created by the CDC.  
2 A. Correct, I believe it was.  
3 Q. Okay. And this one I want to  
4 show you is 1062.  
5 MS. MOORE: McKesson-Hartle  
6 102.  
7 (McKesson-Hartle Exhibit 102  
8 marked for identification.)  
9 QUESTIONS BY MR. PAPANTONIO:  
10 Q. You know why I want to go over  
11 some facts here right now? What I want to do  
12 here, Mr. Hartle, is I want to review some of  
13 this literature, and I just want to see what  
14 it is you observed firsthand after you got  
15 there. Nothing you could have --  
16 What were you doing before you  
17 went for McKesson, work for McKesson?  
18 A. I worked for Target Corporation  
19 where I led -- for about 19 years led  
20 investigations on a lot of different  
21 subjects, different areas, including in  
22 health care --  
23 Q. Right.  
24 A. -- in monitoring diversion,  
25 monitoring dispensing.

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1 Q. You had -- exactly. You had a  
2 long history of doing that. That's why they  
3 hired you and they made you a supervisor --  
4 A. Correct.  
5 Q. -- correct?  
6 You did have a lot of  
7 experience there.  
8 A. Correct.  
9 Q. But this was kind of moving you  
10 into a new area when you went to work where  
11 it dealt with the sale of narcotics. That's  
12 the first time you'd actually dealt with the  
13 sale of narcotics, correct?  
14 A. Correct.  
15 MS. HENN: Objection to form.  
16 QUESTIONS BY MR. PAPANTONIO:  
17 Q. Okay. So --  
18 A. As a distributor.  
19 Q. Yes, sir, I gotcha.  
20 A. Yeah.  
21 Q. I gotcha.  
22 So as we look at this, I want  
23 to ask you about what you would agree with,  
24 what you knew, some of this information. I  
25 want to find out how much information you had

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1 as you were proceeding in your job.  
 2 This is the CDC. It says, "CDC  
 3 grand rounds prescription drug overdoses, a  
 4 US epidemic."  
 5 Now, what I see here is that  
 6 this is January 2012. And I get that you  
 7 still weren't there in 2012, correct?  
 8 A. Correct.  
 9 Q. All right. And it says -- if  
 10 you look at this first paragraph, this says,  
 11 in 20 -- in 20 -- "in 2007" -- you see where  
 12 I am here? "In 2007" --  
 13 A. Yes.  
 14 Q. -- "approximately 27,000  
 15 unintentional drug overdose deaths occurred  
 16 in the United States, one death every  
 17 19 minutes."  
 18 Now, you know, sir, that  
 19 actually progressed, that number of death  
 20 actually progressed at -- went higher after  
 21 2007. You know that, or do you?  
 22 A. I do.  
 23 Q. Okay. It says, "Prescription  
 24 drug abuse is the fastest growing drug  
 25 problem in the United States."

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1 You, I think, have already said  
 2 that you agreed with that, and I'm not --  
 3 well, maybe I misunder -- maybe I did.  
 4 Do you agree with that? I want  
 5 to be fair and make sure I got this right.  
 6 You do agree that at this point  
 7 this was the fastest growing health problem  
 8 in the United States?  
 9 A. I agree with the literature.  
 10 I've read these things, yeah.  
 11 Q. Okay. And again, this is not  
 12 your responsibility at this place. At this  
 13 time you're still at Target, correct?  
 14 A. Correct.  
 15 Q. You don't have anything to do  
 16 with all this.  
 17 It says, "The increase of  
 18 unintentional drug overdose death rates in  
 19 years" -- and it gives us -- it gives us a  
 20 figure we can go to, but it -- "has been  
 21 driven by increased use of a class of  
 22 prescription drugs called opioid analgesics.  
 23 Since 2003, more overdose deaths have  
 24 involved opioid analgesics than heroin and  
 25 cocaine combined."

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1 Right?  
 2 And you're familiar with that.  
 3 You understood as we just looked at the map,  
 4 sir, the progression is pretty apparent. I  
 5 mean, this is the CDC talking about starting  
 6 in 2007, but the progression is pretty  
 7 apparent, isn't it? It was apparent to you  
 8 when you got there?  
 9 MS. HENN: Objection to form.  
 10 QUESTIONS BY MR. PAPANTONIO:  
 11 Q. You could do a look-back and  
 12 see the increase in narcotic use?  
 13 A. Agree.  
 14 Q. All right. Then if you look at  
 15 the bottom it says, "Drug distribution  
 16 through the pharmaceutical supply chain was  
 17 the equivalent of 96 milligrams of morphine  
 18 per person in 1997 and approximately  
 19 700 milligrams per person in 2007, an  
 20 increase of 600 percent. That 700 milligrams  
 21 of morphine per person is enough for everyone  
 22 in the United States to take a typical  
 23 5-milligram dose of Vicodin, hydrocodone,  
 24 every four hours for three weeks."  
 25 Had you ever seen numbers like

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1 that where the CDC went as far and said,  
 2 "Look, not only can we show you the exact  
 3 progression of all this, but we can actually  
 4 tell you how it's actually -- what the impact  
 5 is person to person."  
 6 If you look at this, this is  
 7 saying that 700 milligrams of morphine per  
 8 person is enough for everyone in the United  
 9 States to take a typical 5-milligram dose of  
 10 Vicodin.  
 11 Do you see that?  
 12 A. I've seen things put in terms  
 13 like this before.  
 14 Q. All right. I want to be real  
 15 clear about something. You didn't make the  
 16 decision about things like marketing and  
 17 sales for your company; is that a safe  
 18 statement?  
 19 A. It's a very safe statement.  
 20 Q. Nobody called Mr. Hartle and  
 21 said, "Hey, what do you think about us doing  
 22 a marketing program to increase sales?"  
 23 That's a true statement, isn't it?  
 24 A. True.  
 25 Q. I didn't see that in your

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1 record. If it's there, please tell me if it  
 2 is.  
 3 A. It's a true statement.  
 4 Q. Yeah, but you know that went  
 5 on, that there was a marketing effort by  
 6 McKesson to increase sales by marketing. You  
 7 know that, true?  
 8 MS. HENN: Objection to form.  
 9 THE WITNESS: I know we have a  
 10 marketing department, sure.  
 11 QUESTIONS BY MR. PAPANTONIO:  
 12 Q. Yes, sir.  
 13 And they marketed  
 14 pharmaceutical -- they marketed narcotics,  
 15 simply put. Along with other  
 16 pharmaceuticals, they marketed narcotics.  
 17 MS. HENN: Objection to form.  
 18 QUESTIONS BY MR. PAPANTONIO:  
 19 Q. Yes?  
 20 A. Pharmaceuticals and narcotics,  
 21 sure.  
 22 Q. Okay. So the next -- I'm going  
 23 to continue with some of these articles. I  
 24 just want to -- I'm not going to be able to  
 25 go through the whole thing, but if there's

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1 something in an article that you say, "Look,  
 2 I want to talk about this," feel free to do  
 3 it.  
 4 This next one -- this next one  
 5 is document 1620.  
 6 MS. MOORE: That would be  
 7 McKesson-Hartle 148.  
 8 (McKesson-Hartle Exhibit 148  
 9 marked for identification.)  
 10 QUESTIONS BY MR. PAPANTONIO:  
 11 Q. You want to take a look at  
 12 that, Mr. Hartle, and see what you think?  
 13 This is -- also, everything  
 14 that I'm doing right now, up to a certain  
 15 point, and I'll tell you when that point is,  
 16 this is simply coming from that document that  
 17 you have in front of you that is McKesson  
 18 talking about newspaper articles that were  
 19 important, right?  
 20 MS. HENN: Objection to form.  
 21 I'm sorry, I don't understand what you  
 22 just said.  
 23 QUESTIONS BY MR. PAPANTONIO:  
 24 Q. Okay. Well, let me  
 25 restate -- let me restate it.

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1 I'm going to be talking about  
 2 that -- that PowerPoint, that McKesson  
 3 PowerPoint, and in there it is -- there's  
 4 footnotes, there's places where they talk  
 5 about news articles. Okay?  
 6 I'm going to be talking about  
 7 those, and so as I go forward, that's what  
 8 I'm trying to tell you.  
 9 A. Okay.  
 10 Q. This one is called, "Let's Come  
 11 Together to Solve the Opioid Crisis."  
 12 MS. HENN: Counsel, I'm not  
 13 sure we have the right document.  
 14 THE WITNESS: Yeah. This is a  
 15 Wikipedia page.  
 16 MR. PAPANTONIO: Oh, wait,  
 17 wait. I'm sorry. 1561. Give him --  
 18 hold that because I'm going to get to  
 19 that in just a minute. 1561.  
 20 MS. MOORE: McKesson-Hartle  
 21 145.  
 22 (McKesson-Hartle Exhibit 145  
 23 marked for identification.)  
 24 MR. PAPANTONIO: Could we blow  
 25 that up? He's not going to be able to

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1 see that. I can't even read the  
 2 thing. If you could read that. I  
 3 can't even read it on the paper.  
 4 Let's see if we can blow it up on the  
 5 screen.  
 6 QUESTIONS BY MR. PAPANTONIO:  
 7 Q. Did you know that McKesson did  
 8 an -- they did an ad in the Wall Street  
 9 Journal? Do you remember this ad they did?  
 10 This is after they had been  
 11 punished by the DEA in 2008, after they had  
 12 been punished by the Department of Justice in  
 13 2015, after they had been fined \$150 million,  
 14 after they had been fined \$13 million. I  
 15 could go on. But then they put this ad in  
 16 the newspaper.  
 17 Did you see this ad in the  
 18 newspaper?  
 19 A. I don't recall.  
 20 MS. HENN: Objection to form.  
 21 THE WITNESS: Excuse me.  
 22 QUESTIONS BY MR. PAPANTONIO:  
 23 Q. "Let's Come Together to Solve  
 24 the Opioid Crisis."  
 25 You see that?

<p style="text-align: right;">Page 414</p> <p>1 A. I see that.</p> <p>2 Q. You understand if we look at</p> <p>3 that map that we -- that death map that takes</p> <p>4 us all through 2016, this is a little bit</p> <p>5 late for solving the opioid crisis. If they</p> <p>6 had an ad in the newspaper, Wall Street</p> <p>7 Journal, like this that says -- let's read</p> <p>8 it. Let's read what it says, because these</p> <p>9 are really nice words, and I want to see</p> <p>10 which...</p> <p>11 It says, "Our nation is in the</p> <p>12 midst of an enormous epidemic."</p> <p>13 Now, we can agree, the epidemic</p> <p>14 had started long before 2017, right? Right?</p> <p>15 A. Yeah, based on CDC information.</p> <p>16 Q. But right after they get hit by</p> <p>17 the Department of Justice for \$150 million</p> <p>18 where they have to admit they were -- they</p> <p>19 were unlawfully failing to report suspicious</p> <p>20 orders, those types of things, then this ad</p> <p>21 comes out and it says, "Our nation is in the</p> <p>22 midst of an enormous epidemic," right?</p> <p>23 A. There's what it says.</p> <p>24 MS. HENN: Objection to form.</p> <p>25</p>	<p style="text-align: right;">Page 416</p> <p>1 establishing that you didn't follow -- not</p> <p>2 you, but your company didn't follow all that</p> <p>3 recommendation, and then they got hit again</p> <p>4 in 2015 for \$150 million because they didn't</p> <p>5 do what they were told to do in 2008.</p> <p>6 Do you remember that discussion</p> <p>7 earlier today with my partner?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: I do remember the</p> <p>10 discussion.</p> <p>11 QUESTIONS BY MR. PAPANTONIO:</p> <p>12 Q. Okay. So it says, "The only</p> <p>13 way we're going to solve it is by coming</p> <p>14 together."</p> <p>15 What is -- what do you mean,</p> <p>16 "coming together"? What -- what was -- how</p> <p>17 were you going to come together to solve</p> <p>18 that -- the problem that we saw on that death</p> <p>19 map that extended from New York to</p> <p>20 California? What was -- what is coming</p> <p>21 together?</p> <p>22 Would you underline "coming</p> <p>23 together"?</p> <p>24 How do you want to come</p> <p>25 together to solve that problem? What is --</p>
<p style="text-align: right;">Page 415</p> <p>1 QUESTIONS BY MR. PAPANTONIO:</p> <p>2 Q. It says, "The only way we can</p> <p>3 solve it is by coming together to create a</p> <p>4 practical solution."</p> <p>5 Isn't the practical solution</p> <p>6 what the DEA was telling you to do in 2008,</p> <p>7 before you were there? You went back and</p> <p>8 looked at the paper. Wasn't it pretty clear</p> <p>9 the DEA was trying to tell you there is a</p> <p>10 solution, but you got to follow the law.</p> <p>11 You'd agree with that, wouldn't</p> <p>12 you, the 2008 where they had to pay</p> <p>13 \$13 million?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 QUESTIONS BY MR. PAPANTONIO:</p> <p>16 Q. The DEA was trying to tell you:</p> <p>17 There's a solution; here's what it is.</p> <p>18 Do you remember that?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: They were</p> <p>21 reiterating the regulations and</p> <p>22 expectations.</p> <p>23 QUESTIONS BY MR. PAPANTONIO:</p> <p>24 Q. And then even after 2008, I</p> <p>25 think my partner spent most of the morning</p>	<p style="text-align: right;">Page 417</p> <p>1 did they -- did you have a come-together</p> <p>2 meeting or something where they said, "We got</p> <p>3 a solution; now we're going to come</p> <p>4 together"?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 THE WITNESS: No, I didn't</p> <p>7 write this, so I don't know exactly</p> <p>8 what the meaning was.</p> <p>9 QUESTIONS BY MR. PAPANTONIO:</p> <p>10 Q. I know you didn't write it.</p> <p>11 A. Yeah.</p> <p>12 Q. I'm not -- again, this isn't a</p> <p>13 blame game. I'm just wondering.</p> <p>14 Do you remember a meeting where</p> <p>15 we're going to come together and here is our</p> <p>16 practical solutions to all these people dying</p> <p>17 in the United States from our narcotics?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 QUESTIONS BY MR. PAPANTONIO:</p> <p>20 Q. I'm sorry.</p> <p>21 A. Could you ask the question</p> <p>22 again?</p> <p>23 Q. Yes, sir.</p> <p>24 Do you remember there being a</p> <p>25 come-together program like -- was a</p>



<p style="text-align: right;">Page 418</p> <p>1 come-together program like the ICARE program          2 that you described earlier?          3 A. I don't recall --          4 MS. HENN: Objection to form.          5 THE WITNESS: -- a          6 come-together program.          7 QUESTIONS BY MR. PAPANTONIO:          8 Q. Okay. Do you know what          9 practical solutions they were talking about          10 there?          11 A. I don't --          12 MS. HENN: Objection to form.          13 Go ahead.          14 THE WITNESS: I don't know          15 specifically.          16 QUESTIONS BY MR. PAPANTONIO:          17 Q. All right. Do you know -- I'm          18 just -- let's read on. It says, "At McKesson          19 we're working to do our part by continuously          20 enhancing our programs designed to detect and          21 prevent opioid diversion."          22 Isn't that what you told the          23 DEA you were going to do in 2008?          24 Underline that.          25 In 2008, the president of your</p>	<p style="text-align: right;">Page 420</p> <p>1 Q. Did you meet Mr. Eric Holder?          2 You been up to his office?          3 MS. HENN: Objection to form.          4 THE WITNESS: I have not.          5 QUESTIONS BY MR. PAPANTONIO:          6 Q. You haven't met him, right?          7 A. No.          8 Q. But you know that Eric Holder          9 was the Attorney General during the time that          10 your company was negotiating to get out of          11 the problems that you had in 2015. Mr. Eric          12 Holder with Covington Burling, in the very          13 building we're sitting right now, was the          14 Attorney General, right?          15 MS. HENN: Objection to form.          16 QUESTIONS BY MR. PAPANTONIO:          17 Q. You know that?          18 A. I know that.          19 Q. And you know that his partner          20 who negotiated all these deals was Mr. Geoff          21 Hobart, and he's also right here in this          22 building, right? The building we're sitting          23 in right here in Washington, DC.          24 MS. HENN: Objection to form.          25</p>
<p style="text-align: right;">Page 419</p> <p>1 company -- you know Mr. Hammergren? Have you          2 ever met Mr. Hammergren?          3 A. Not in person. I've been to          4 conferences with him. I know who he is. He          5 is our CEO.          6 Q. You know what else I'm          7 interested in? You ever met Mr. Hobart? We          8 saw Mr. Hobart's name a lot. He's an          9 attorney, right? You've met him?          10 A. I have.          11 Q. As a matter of fact, we're here          12 in Covington &amp; Burling here in Washington,          13 DC, and this is where Mr. Hobart's office is,          14 right? True?          15 A. Correct.          16 Q. Did you meet him here in this          17 office?          18 A. I've met Geoff.          19 Q. You've met Geoff. That's his          20 name, Geoff Hobart?          21 A. Correct.          22 Q. Did you know also in this --          23 also in this building that we're sitting          24 right here -- you know who Eric Holder is?          25 A. I do.</p>	<p style="text-align: right;">Page 421</p> <p>1 QUESTIONS BY MR. PAPANTONIO:          2 Q. Yes?          3 A. Yes.          4 Q. You know that?          5 A. Yes.          6 Q. And you know about the article          7 where the DEA was complaining that they had          8 made recommendations about Aurora, where they          9 suggested that Aurora, because of all the bad          10 things that were done in Aurora, that there          11 should be -- there should be fines in excess          12 of a billion dollars. Do you know that?          13 Do you remember that article          14 that appeared in the Wall Street Journal?          15 MS. HENN: Objection to form.          16 QUESTIONS BY MR. PAPANTONIO:          17 Q. I'll get to it in a minute, but          18 I'm just --          19 A. I think I recall, yeah.          20 Q. You do recall that.          21 And you recall that those same          22 DEA agents -- the same DEA -- well, let me          23 show it to you. You've seen it, I know.          24 This is --          25 MS. MOORE: McKesson-Hartle 84.</p>

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1 It's P1.108.  
2 (McKesson-Hartle Exhibit 84  
3 marked for identification.)  
4 QUESTIONS BY MR. PAPANTONIO:  
5 Q. And you've seen this, right?  
6 It's attached -- that's actually attached to  
7 one of these documents, but I want to make  
8 sure you've seen this before.  
9 A. I have.  
10 Q. All right. Well, let's read it  
11 together since -- let's go from this -- this  
12 ad that appeared in the Wall Street Journal  
13 about how you're going to come together to  
14 solve the crisis in the United States.  
15 This headline on this article  
16 is, "We feel like our system was highjacked.  
17 DEA agents say a huge opioid case ended in a  
18 whimper."  
19 Now you were actually  
20 involved -- at this point, sir, you were  
21 involved in the process of simply trying to  
22 do your job and provide information to the  
23 people so they could work through this  
24 problem that existed in 2015, right?  
25 MS. HENN: Objection to form.

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1 QUESTIONS BY MR. PAPANTONIO:  
2 Q. You were providing them  
3 information. We got to work through the  
4 problem of -- we got to work through this  
5 problem. We've been accused of certain  
6 things like not reporting suspicious orders  
7 in Aurora, right?  
8 A. Could you rephrase that?  
9 MS. HENN: Objection to form.  
10 QUESTIONS BY MR. PAPANTONIO:  
11 Q. Yes, sir.  
12 A. I don't understand who is  
13 "they."  
14 Q. I want to make sure that I'm  
15 clear.  
16 You did not participate in  
17 anything that occurred dealing with the  
18 \$150 million fine; yes or no?  
19 MS. HENN: Objection to form.  
20 THE WITNESS: That was before I  
21 joined McKesson.  
22 QUESTIONS BY MR. PAPANTONIO:  
23 Q. That's right.  
24 But nevertheless, you were  
25 familiar with the fact that the question had

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1 been raised by the DEA where they had -- they  
2 had actually -- they had actually made a  
3 recommendation that there be criminal charges  
4 brought against McKesson, true?  
5 MS. HENN: Objection to form.  
6 QUESTIONS BY MR. PAPANTONIO:  
7 Q. Take a minute and look at this.  
8 I want you to be familiar with it. I don't  
9 want you guessing about this because these  
10 questions I'm about to ask you are important.  
11 Are you familiar with that  
12 article, sir?  
13 A. I am.  
14 Q. I'm kind of short on time so I  
15 want to move through this.  
16 Here's what I want to ask: You  
17 knew that the DEA was recommending a fine in  
18 excess of a billion dollars because of the  
19 conduct that took place in Aurora. You knew  
20 that, correct?  
21 A. Correct.  
22 MS. HENN: Objection to form.  
23 QUESTIONS BY MR. PAPANTONIO:  
24 Q. In your job you knew that.  
25 And in your job you also knew

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1 that the -- at some point the DEA had said,  
2 "this conduct is so bad, we need to have a  
3 criminal -- there needs to be criminal  
4 prosecution." You knew that, right?  
5 MS. HENN: Objection to form.  
6 THE WITNESS: I knew that was  
7 suggested.  
8 QUESTIONS BY MR. PAPANTONIO:  
9 Q. Yes, sir.  
10 And you know that Mr. Hobart,  
11 Geoff Hobart, handled that case, correct?  
12 MS. HENN: Objection to form.  
13 THE WITNESS: Correct.  
14 QUESTIONS BY MR. PAPANTONIO:  
15 Q. And Mr. Hobart is a partner  
16 with the Attorney General Eric Holder, a law  
17 partner at Covington & Burling with Eric  
18 Holder. You know that, correct?  
19 MS. HENN: Objection to form.  
20 THE WITNESS: I do.  
21 QUESTIONS BY MR. PAPANTONIO:  
22 Q. And as a matter of fact, we're  
23 sitting in an office as we take this  
24 deposition, and in this office is Mr. Eric  
25 Holder's office, right? You know that?

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1 MS. HENN: Objection to form.  
2 THE WITNESS: I know it's in  
3 this complex, sure.  
4 QUESTIONS BY MR. PAPANTONIO:  
5 Q. In this complex.  
6 And you know Mr. Hobart's  
7 office is in this complex, correct?  
8 MS. HENN: Objection to form.  
9 THE WITNESS: Correct.  
10 QUESTIONS BY MR. PAPANTONIO:  
11 Q. And so Mr. Hobart was able to  
12 get -- to move from the DEA talking about a  
13 billion dollar -- in excess of a billion  
14 dollar fine and potential criminal --  
15 criminal prosecution that -- that all  
16 suddenly moved to \$150 million fine for this  
17 conduct that we're talking about in Aurora,  
18 right?  
19 MS. HENN: Objection to form.  
20 QUESTIONS BY MR. PAPANTONIO:  
21 Q. You know about that, don't you?  
22 A. I know that's what it ended up,  
23 yes.  
24 Q. Yeah.  
25 And what was your involvement

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1 in that? Did you provide information to  
2 Mr. Hobart? Did you -- not Mr. Hobart.  
3 Did you provide information to  
4 McKesson to try to get -- work through this  
5 conflict with the DEA?  
6 MS. HENN: And just to be  
7 cautious, I'll remind you not to  
8 discuss any conversations you had with  
9 counsel. But his question is about  
10 providing information to McKesson.  
11 QUESTIONS BY MR. PAPANTONIO:  
12 Q. Yeah.  
13 Did you provide McKess --  
14 McKesson -- did you provide McKesson with  
15 information so they could work through this  
16 conflict that they were having with the DEA?  
17 MS. HENN: Objection to form.  
18 THE WITNESS: I'm not sure if  
19 I -- yeah, if I provided --  
20 QUESTIONS BY MR. PAPANTONIO:  
21 Q. Do you remember -- if you don't  
22 remember --  
23 A. I don't remember.  
24 Q. Okay. That's fine. It's okay.  
25 If you don't remember, you don't have to --

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1 A. I understand.  
2 Q. You don't have to make anything  
3 up or try to remember.  
4 Okay. Let me keep working  
5 here. Here's another news article. It's  
6 1526, Document 1526.  
7 MR. PAPANTONIO: Carol, do you  
8 have a --  
9 MS. MOORE: Yes, sir. 1556.  
10 MR. PAPANTONIO: Oh, I'm sorry,  
11 1556. Yeah. I got it. I got it. I  
12 got it.  
13 MS. MOORE: McKesson-Hartle  
14 141, P1.1556.  
15 (McKesson-Hartle Exhibit 141  
16 marked for identification.)  
17 QUESTIONS BY MR. PAPANTONIO:  
18 Q. Mr. Hartle, this is -- take a  
19 minute and look at this. Just breeze through  
20 it if you can. I got a couple of just small  
21 questions for you.  
22 But it's got your name at the  
23 top of it; do you see that? Nate Hartle.  
24 Do you see that, Mr. --  
25 A. I do.

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1 Q. Okay. And you know who Karen  
2 Harper is? You've dealt with Karen Harper?  
3 A. I do.  
4 Q. Okay. Now, did you know that  
5 there was a representation that was made -- a  
6 representation that was made to Congress that  
7 your company did not have any way to find out  
8 what other drug companies were selling to the  
9 various pharmacies? Did you know that?  
10 MS. HENN: Objection to form.  
11 THE WITNESS: Could you say  
12 that again, please? Did I know --  
13 QUESTIONS BY MR. PAPANTONIO:  
14 Q. Yes, sir.  
15 Did you know that there was a  
16 representation made -- it wasn't from your  
17 company, but there was a representation made  
18 to Congress during the Congressional hearings  
19 that there -- the reason they didn't know  
20 exactly how many drugs were being sold --  
21 sold in a pharmacy is they didn't know what  
22 the other companies were selling to the  
23 pharmacy.  
24 You ever heard that?  
25 MS. HENN: Objection to form.

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1 THE WITNESS: I've heard  
2 statements like that.  
3 QUESTIONS BY MR. PAPANTONIO:  
4 Q. But that wouldn't be true. You  
5 had the ability to find out all the drugs  
6 that were being sold in a pharmacy. We can  
7 agree with that, can't we?  
8 MS. HENN: Objection to form.  
9 QUESTIONS BY MR. PAPANTONIO:  
10 Q. You could have done an audit  
11 anytime?  
12 MS. HENN: Objection to form.  
13 THE WITNESS: That was part of  
14 our process. We would get --  
15 QUESTIONS BY MR. PAPANTONIO:  
16 Q. Yes, sir.  
17 A. -- dispensing data and be able  
18 to see --  
19 Q. That's what I'm trying to get  
20 at. I just want to be clear about something.  
21 MS. HENN: Counsel, let's make  
22 sure we don't talk on top of each  
23 other.  
24 QUESTIONS BY MR. PAPANTONIO:  
25 Q. Yeah. So I just want to be

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1 clear. I think you're -- you're already  
2 answering the question. I want to get to a  
3 little more direct.  
4 A. Okay.  
5 Q. If you wanted to know whether  
6 Cardinal was selling drugs to a pharmacy  
7 along with Amerisource, you had the right to  
8 audit and find out. You knew exactly how  
9 many drugs were being sold in any given  
10 pharmacy that you were doing business with,  
11 at least when you came along?  
12 MS. HENN: Objection to form.  
13 THE WITNESS: Correct. We  
14 would ask for dispensing to validate.  
15 QUESTIONS BY MR. PAPANTONIO:  
16 Q. Right.  
17 And dispensing to validate is a  
18 way that you can tell if there's a glut of  
19 narcotics being sold in any one pharmacy,  
20 true?  
21 MS. HENN: Objection to form.  
22 QUESTIONS BY MR. PAPANTONIO:  
23 Q. You have access to that  
24 information?  
25 A. What was the phrase you used

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1 before?  
2 Q. I used the word "glut," but you  
3 don't have to use it. If there were -- you  
4 can -- let me rephrase it.  
5 You had the right to do an  
6 audit and find exactly how many drugs were  
7 being -- how many narcotics were being sold  
8 to any given pharmacy at any given time by  
9 any narcotic company; yes or no?  
10 MS. HENN: Objection to form.  
11 THE WITNESS: I need you to  
12 please restate that again --  
13 QUESTIONS BY MR. PAPANTONIO:  
14 Q. Yes, sir.  
15 A. -- so I can be very clear.  
16 Q. Yeah, I want to be clear.  
17 MR. PAPANTONIO: Would you read  
18 that back? Read that back if you  
19 don't mind.  
20 She'll read that back to you.  
21 (Court Reporter read back  
22 question.)  
23 MS. HENN: Objection to form.  
24 QUESTIONS BY MR. PAPANTONIO:  
25 Q. That's a fair question, isn't

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1 it? I mean, you know the answer to that.  
2 You can do an audit, right?  
3 A. We could request dispensing  
4 data to understand what a pharmacy is  
5 dispensing.  
6 Q. That's all I'm trying to get  
7 to. I just want to make sure I didn't  
8 misunderstand it.  
9 A. Right.  
10 Q. And it wasn't you that  
11 testified in front of Congress; I'm not  
12 suggesting that you did. But if that was  
13 represented in front of Congress, that just  
14 wouldn't -- if it was represented in front of  
15 Congress that it would be absolute -- that  
16 McKesson had no way of finding out what other  
17 drug companies were selling to any given  
18 pharmacy, if that was represented, that  
19 wouldn't be true, correct?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: Can you please  
22 say that again?  
23 QUESTIONS BY MR. PAPANTONIO:  
24 Q. Yes, sir.  
25 A. Yeah.



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1 Q. If it was represented to  
2 Congress that McKesson had no way of knowing  
3 what other drug companies were selling to any  
4 given pharmacy, narcotics, that wouldn't be  
5 true, correct?  
6 MS. HENN: Objection to form.  
7 THE WITNESS: I'm not saying  
8 that. We have -- can gain dispensing  
9 data --  
10 QUESTIONS BY MR. PAPANTONIO:  
11 Q. Yeah.  
12 A. -- which doesn't tell us who it  
13 came from as a distributor.  
14 Q. Right.  
15 A. It tells us what they're  
16 dispensing.  
17 Q. Exactly. That's all I care  
18 about. That's what I want the jury to  
19 understand.  
20 Dispensing data gives you the  
21 information on any given day, any given time,  
22 how much narcotics is being sold to a  
23 pharmacy.  
24 MS. HENN: Objection to form.  
25

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1 QUESTIONS BY MR. PAPANTONIO:  
2 Q. That's true, isn't it?  
3 A. How much is being dispensed by  
4 the pharmacy.  
5 Q. Yes. Yes.  
6 A. Not sold to the pharmacy,  
7 dispensed by the pharmacy.  
8 Q. Right.  
9 And you can extrapolate from  
10 that how many drugs -- how many narcotics  
11 they have in their pharmacy, right?  
12 MS. HENN: Objection to form.  
13 THE WITNESS: You can -- you  
14 can understand what they're  
15 dispensing.  
16 QUESTIONS BY MR. PAPANTONIO:  
17 Q. Right.  
18 A. Which drugs, noncontrols, all  
19 drugs.  
20 Q. Correct. If you look at this  
21 document that's in front of you, it's 1526.  
22 MR. PAPANTONIO: What did you  
23 say that number was?  
24 MS. HENN: And, Counsel, we  
25 need to take a break relatively soon.

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1 We've been going an hour and ten  
2 minutes.  
3 MR. PAPANTONIO: Yeah, okay.  
4 You want to take a break right now?  
5 We'll come back at it.  
6 How much -- what have I got,  
7 another 45 minutes, something like  
8 that?  
9 MS. HENN: I think more like an  
10 hour.  
11 VIDEOGRAPHER: Six hours 10  
12 minutes on the record.  
13 MR. PAPANTONIO: Okay. And why  
14 don't you take a break.  
15 THE WITNESS: That's fine.  
16 VIDEOGRAPHER: The time is  
17 4:39 p.m., and we're going off the  
18 record.  
19 (Off the record at 4:39 p.m.)  
20 VIDEOGRAPHER: The time is  
21 4:50 p.m., and we're back on the  
22 record.  
23 QUESTIONS BY MR. PAPANTONIO:  
24 Q. Sir, I want to show you -- I  
25 want to talk to you about -- you know I used

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1 that word "glut"?  
2 A. You did.  
3 MR. PAPANTONIO: Okay. Carol,  
4 can I have a piece of white -- just a  
5 white piece of paper? Don't worry  
6 about that other. Give me a piece of  
7 white paper and then we'll move on.  
8 QUESTIONS BY MR. PAPANTONIO:  
9 Q. I want to show you this 1556.  
10 It'll be up on the screen, and I want to ask  
11 you about this.  
12 Standby.  
13 MR. PAPANTONIO: Oh, here it  
14 is. Let's -- hold on just a second.  
15 Let's back up to the beginning of it.  
16 It shouldn't be that big.  
17 Why don't we start it over.  
18 Okay.  
19 (Video played.)  
20 QUESTIONS BY MR. PAPANTONIO:  
21 Q. Here's what I want to ask you  
22 about. You don't have -- there is no oxy  
23 express if the level of narcotics are  
24 properly controlled. If you don't have a  
25 glut, an excess, of pharmaceuticals, things

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1 like -- things like the oxy express can't  
2 even exist because there aren't enough pills,  
3 right? You'd agree with that?  
4 MS. HENN: Objection to form.  
5 THE WITNESS: If there's less  
6 pills --  
7 QUESTIONS BY MR. PAPANTONIO:  
8 Q. Right.  
9 A. -- sure.  
10 Q. Well, here's what I'm getting  
11 at. Here's really what I'm trying to get to,  
12 okay?  
13 Let's go back to this. Let's  
14 go back to Kermit. If you got a town like  
15 Kermit -- and in a minute -- you don't have  
16 to take my word for it; I'll show you the  
17 actual numbers -- that Kermit had a  
18 population of about 400 -- I think it's 406  
19 people, okay? -- during the time that the --  
20 during the time that Congress actually wrote  
21 a letter to your president, Mr. Hammergren.  
22 Have you ever reviewed that  
23 letter that Congress wrote to Mr. Hammergren?  
24 MS. HENN: Objection to form.  
25 THE WITNESS: Dated when?

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1 QUESTIONS BY MR. PAPANTONIO:  
2 Q. I'll have to get to it in a  
3 minute. But I'm going to rely on the facts  
4 in that letter, and if I misstate it, it'll  
5 be in that letter.  
6 But Kermit was in West  
7 Virginia, correct? You know that?  
8 A. Correct.  
9 Q. And it had a population of  
10 about 406 people; you know that. It's a very  
11 small population.  
12 MS. HENN: Objection to form.  
13 THE WITNESS: Small population.  
14 QUESTIONS BY MR. PAPANTONIO:  
15 Q. Okay. But nevertheless, it was  
16 getting millions of pills shipped into this  
17 little area of a population of 406 people;  
18 did you know that?  
19 Do you know how many million of  
20 pills were shipped in, that McKesson actually  
21 shipped in?  
22 MS. HENN: Objection to form.  
23 THE WITNESS: I know there were  
24 many.  
25

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1 QUESTIONS BY MR. PAPANTONIO:  
2 Q. Okay. We'll talk about  
3 specifics in a minute. I don't expect you to  
4 remember numbers. These are big numbers.  
5 So let's just say if I've got  
6 millions of pills being shipped into a town  
7 that there's only 406 people, part of those  
8 are children, right? So it's not -- it's not  
9 406 adults, 406 people in the town -- in this  
10 town of Kermit. And you've got millions of  
11 pills being shipped in there, right?  
12 Well, we know that 406 people  
13 can't use millions of pills. You know  
14 that -- I mean, that's just logical, isn't  
15 it?  
16 MS. HENN: Objection to form.  
17 THE WITNESS: I understand.  
18 QUESTIONS BY MR. PAPANTONIO:  
19 Q. Yeah.  
20 I don't want to put words in  
21 your mouth, but we're talking logic now. If  
22 you got a population of 406 people, they  
23 can't -- they can't absorb -- I'm going to  
24 write those words so we're going to come back  
25 to that. They can't absorb millions of

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1 pills, right? 406 people can't absorb  
2 millions of pills year in, year out. You'd  
3 agree with that, narcotics?  
4 MS. HENN: Objection to form.  
5 THE WITNESS: Right.  
6 QUESTIONS BY MR. PAPANTONIO:  
7 Q. Okay. So because of that,  
8 because they can't -- the four -- these  
9 families, you know, you got momma and daddy  
10 and little children and whatever like you see  
11 on this film up here. They can't absorb  
12 millions of pills.  
13 And there's only a population  
14 of 406 people, so where do the pills go?  
15 Where do the other millions of pills go?  
16 MS. HENN: Objection to form.  
17 QUESTIONS BY MR. PAPANTONIO:  
18 Q. I mean, isn't this kind of  
19 logic?  
20 A. I think there's some context  
21 that's missing, you know, in terms of the  
22 dispensing, the population surrounding the  
23 number of pharmacies, the number of people  
24 that go to that location --  
25 Q. Right.

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1 A. -- how many years was the  
2 million pills. I mean, there's additional  
3 context, I -- I understand.  
4 Q. Yeah, but you would agree  
5 that if there's millions of pills that are  
6 supposed to be shipped just to the town of  
7 Kermit, then 406 people cannot absorb  
8 millions of narcotics. You would agree with  
9 that. I mean, that's just logic.  
10 MS. HENN: Objection to form.  
11 QUESTIONS BY MR. PAPANTONIO:  
12 Q. True?  
13 A. 400 people can't consume that  
14 many pills.  
15 Q. Yeah. So let me show you this  
16 film again because I'm going to go from this  
17 film, and then we're going to talk about  
18 specifics about what the actual Congressional  
19 letter said about places like Kermit and...  
20 There's a family. There's  
21 pills coming in from Judy's Pharmacy.  
22 You remember us talking about  
23 Judy's Pharmacy earlier on? I just called it  
24 Judy's Pharmacy.  
25 A. I do remember that.

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1 Q. Okay. So Judy's Pharmacy is  
2 selling more -- they're getting in all these  
3 pills, but the population -- if the  
4 population can't cover the pills, then the  
5 excess has to go somewhere, correct?  
6 MS. HENN: Objection to form.  
7 QUESTIONS BY MR. PAPANTONIO:  
8 Q. I mean, you'd agree with that,  
9 wouldn't you?  
10 A. Correct.  
11 Q. Okay. And one place it goes in  
12 diversion is it goes to pill mills, right?  
13 Goes to pill mills; that's one place?  
14 A. It can.  
15 Q. And if you got a salesperson  
16 out here working that area, she ought to be  
17 able to see the pill mills firsthand. She  
18 can actually see what -- she can see the pill  
19 mills, people standing outside the pill mills  
20 day in and day out to get their pills, right?  
21 MS. HENN: Objection to form.  
22 THE WITNESS: Some of those red  
23 flags can be visible, yes.  
24 QUESTIONS BY MR. PAPANTONIO:  
25 Q. That would be called -- yeah,

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1 that's the term, isn't it, red flag.  
2 And she can see that if there's  
3 cars coming through the town, she can see  
4 that they're coming from other states, maybe  
5 Florida, maybe Mississippi, maybe Georgia.  
6 Wherever it is, she can see the -- she can  
7 actually see the license tags of the people  
8 that are driving through this little area to  
9 get pills, right?  
10 MS. HENN: Objection to form.  
11 QUESTIONS BY MR. PAPANTONIO:  
12 Q. She sees that firsthand,  
13 correct?  
14 MS. HENN: Objection to form.  
15 THE WITNESS: Again, you could  
16 see some of those things occasionally.  
17 QUESTIONS BY MR. PAPANTONIO:  
18 Q. All right. So two things I  
19 want to mark. I want to mark -- I'm going to  
20 give you a hard copy of what we just put up  
21 there, and let's get it marked.  
22 MS. MOORE: This is  
23 McKesson-Hartle 165.  
24 MR. PAPANTONIO: This is the  
25 drawing that I did.

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1 MS. MOORE: The video is --  
2 MR. PAPANTONIO: And then we'll  
3 get the video put in. I might have --  
4 anyway, let me keep moving.  
5 MS. MOORE: 1526.  
6 McKesson-Hartle 140.  
7 (McKesson-Hartle Exhibits 165  
8 and 140 marked for identification.)  
9 QUESTIONS BY MR. PAPANTONIO:  
10 Q. So we've got -- if we have a  
11 glut of pills, we know the pills have to go  
12 somewhere. That's the only thing I'm asking  
13 you. Just common sense tells you if you got  
14 too many pills, the pills have got to end up  
15 somewhere. That's my point.  
16 You would agree with that,  
17 true?  
18 MS. HENN: Objection to form.  
19 THE WITNESS: I understand your  
20 point.  
21 QUESTIONS BY MR. PAPANTONIO:  
22 Q. All right. So now let's go and  
23 let's look at what -- let's look at what  
24 the -- what Congress wrote to the president  
25 of your company, what they said about what

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1 was happening in this little area called  
 2 Kermit.  
 3 You know where Kermit is,  
 4 correct?  
 5 MR. PAPANTONIO: Let's give him  
 6 P144.  
 7 MS. MOORE: McKesson-Hartle 76.  
 8 (McKesson-Hartle Exhibit 76  
 9 marked for identification.)  
 10 QUESTIONS BY MR. PAPANTONIO:  
 11 Q. Okay. So if we go through this  
 12 document, this is written Congress -- this is  
 13 Congress of the United States and -- it's  
 14 Congress of the United States, and it's  
 15 written to Mr. Hammergren.  
 16 Do you see that?  
 17 A. Yes.  
 18 Q. And Mr. Hammergren is the  
 19 president of the company. He's president and  
 20 chief executive officer of your company,  
 21 McKesson, and has been all the time you've  
 22 worked there, correct?  
 23 A. Correct.  
 24 Q. All right. So the first  
 25 paragraph -- let's look at that first

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1 paragraph. It says, "Pursuant to the Rules X  
 2 and XI of the US House of Representatives,  
 3 the committee is continuing to investigate  
 4 the opioid epidemic in the US that is taking  
 5 115 lives a day."  
 6 You've known that that's a  
 7 figure that's been thrown around there for a  
 8 long time, and that is 115 people die every  
 9 day because of the opioid crisis, correct?  
 10 MS. HENN: Object to form.  
 11 THE WITNESS: I've seen those  
 12 type of figures, yeah.  
 13 QUESTIONS BY MR. PAPANTONIO:  
 14 Q. And then it says, "As part of  
 15 our investigation, the committee wrote to  
 16 you" -- he's talking to Mr. Hammergren -- "on  
 17 May 8, 2017, regarding your distribution  
 18 practices generally, and in particular with  
 19 West Virginia -- with respect to West  
 20 Virginia. As we mentioned in that letter,  
 21 the opioid epidemic has been particularly  
 22 devastating to West Virginia."  
 23 Now, you knew that when you  
 24 came to work with this company, that West  
 25 Virginia -- not just West Virginia but other

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1 parts of this country were devastated by an  
 2 overabundance, a glut, of opioids.  
 3 You know that, right?  
 4 MS. HENN: Objection to form.  
 5 THE WITNESS: I knew certain  
 6 parts of the country, sure, were  
 7 impacted by the epidemic.  
 8 QUESTIONS BY MR. PAPANTONIO:  
 9 Q. It wasn't just West Virginia;  
 10 you know that?  
 11 A. I know that.  
 12 Q. You knew it was New Mexico.  
 13 That comes to your mind, doesn't it?  
 14 A. Correct. I know different  
 15 parts of the country.  
 16 Q. Ohio, right? Kentucky, right?  
 17 I mean, other -- other parts  
 18 besides West Virginia. I'm going to just  
 19 talk about West Virginia right here.  
 20 But it says, "As we mentioned  
 21 in that letter, the opioid epidemic has been  
 22 particularly devastating to West Virginia.  
 23 For example, in 2015, West Virginia had the  
 24 highest opioid overdose death rate in the  
 25 nation. In addition to leading to numerous

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1 deaths, the opioid crisis in West Virginia  
 2 has also caused many social challenges for  
 3 its residents and has devastated the  
 4 economy."  
 5 Now, you remember me asking  
 6 you -- we started off, and we were talking  
 7 about the loss of life. And we looked at  
 8 the -- we looked at the death map. And --  
 9 but this is saying, yes, loss of life is  
 10 something that we see, and we also see that  
 11 loss of life --  
 12 MR. PAPANTONIO: Would you  
 13 underline "devastating the economy"  
 14 for me, Corey.  
 15 QUESTIONS BY MR. PAPANTONIO:  
 16 Q. It says, "Press reports  
 17 indicate the epidemic is now estimated to  
 18 cost West Virginia \$8.8 billion a year."  
 19 Had you ever seen that number  
 20 that -- that they had calculated it was  
 21 costing West Virginia \$8.8 billion a year?  
 22 A. I don't remember that exact  
 23 figure, but I've seen figures like that.  
 24 Q. Yeah.  
 25 And you understand why it costs



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1 the city or county money, correct?  
2 You understand the connection  
3 between EMTs, emergency care, hospital care,  
4 police, even court -- the court costs. You  
5 understand how all that is an economic loss?  
6 MS. HENN: Objection to form.  
7 THE WITNESS: I understand  
8 what's typically included in those  
9 types of calculations, yes.  
10 QUESTIONS BY MR. PAPANTONIO:  
11 Q. What would you say? What would  
12 you say would be included --  
13 MS. HENN: Objection to form.  
14 QUESTIONS BY MR. PAPANTONIO:  
15 Q. -- in those type of economic  
16 losses in a county or a city?  
17 MS. HENN: Objection to form.  
18 THE WITNESS: The same types of  
19 things that you mentioned.  
20 QUESTIONS BY MR. PAPANTONIO:  
21 Q. Okay. Fair enough.  
22 You see it says -- page 2 --  
23 page 2. Go to page 2, please.  
24 It says, "Sav-Rite No. 1,  
25 Kermit, West Virginia."

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1 That's a store that you sold  
2 pharmaceuticals -- that McKesson sold  
3 narcotics to, correct?  
4 A. Correct. I said correct.  
5 Q. I'm sorry, I didn't hear.  
6 It said, "In December of 2016,  
7 the Charleston Gazette reported that the  
8 Sav-Rite Pharmacy located in Kermit, West  
9 Virginia, was among the top purchasers of  
10 hydrocodone in West Virginia between 2007 and  
11 2012. According to US Census data, the town  
12 of Kermit had a population of 406 individuals  
13 in 2010."  
14 I used the 400. You remember  
15 using 406 as the population in Kermit?  
16 A. I do.  
17 Q. Okay. And then it says, "DEA  
18 data indicates that over a two-year period,  
19 McKesson shipped nearly 5 million doses of  
20 opioids to a pharmacy in a town of 406  
21 people."  
22 Now, let me make something real  
23 clear. That wasn't you. You didn't make the  
24 decision to ship all those opioids to Kermit,  
25 did you?

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1 MS. HENN: Objection to form.  
2 THE WITNESS: No, I didn't.  
3 QUESTIONS BY MR. PAPANTONIO:  
4 Q. But Michael Oriente, who worked  
5 for you, he would have been involved in what  
6 was happening in Kermit, West Virginia, true?  
7 MS. HENN: Objection to form.  
8 QUESTIONS BY MR. PAPANTONIO:  
9 Q. Out of Landover?  
10 MS. HENN: Same objection.  
11 THE WITNESS: He may have been  
12 involved.  
13 QUESTIONS BY MR. PAPANTONIO:  
14 Q. Okay. It says, "According to  
15 the DEA, automation of reports and  
16 consolidation orders, data obtained by the  
17 committee, in 2006 McKesson shipped 2,211,630  
18 hydrocodone pills and 78,500 oxycodone to  
19 Strosnider Pharmacy, a/k/a Sav-Rite Pharmacy  
20 No. 1."  
21 Do you see that?  
22 A. I see that.  
23 MR. PAPANTONIO: Underline 78  
24 million 500 -- 78,500 oxycodone pills.  
25 QUESTIONS BY MR. PAPANTONIO:

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1 Q. It says, "This means that in  
2 2006, McKesson would have shipped in an  
3 average of 186,303 codone {sic} pills per  
4 month, for a 6,059 hydrocodone pills per  
5 day."  
6 Do you see that?  
7 MS. HENN: Objection to form.  
8 THE WITNESS: I see that.  
9 QUESTIONS BY MR. PAPANTONIO:  
10 Q. All right. Is that the first  
11 time you've seen those kind of numbers?  
12 A. No.  
13 Q. Oh, you'd seen that before  
14 today?  
15 A. Generally these numbers, yeah.  
16 Q. Okay. And it says -- it says,  
17 the bottom line in that paragraph, "Applying  
18 the DEA data, it can be determined that  
19 McKesson supplied 76 percent of the Sav-Rite  
20 Pharmacy No. 1 hydrocodone pills that year."  
21 When was the first time you saw  
22 this document?  
23 A. I can't recall.  
24 Q. You agree by the time you got  
25 involved, all the damage had been done to

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1 Kermit, right?

2 MS. HENN: Objection to form.

3 QUESTIONS BY MR. PAPANTONIO:

4 Q. By the time you got done, they

5 already had an increased rate of addiction,

6 an increased rate of death in Kermit.

7 A. Yeah.

8 MS. HENN: Objection to form.

9 THE WITNESS: I joined in 2014.

10 QUESTIONS BY MR. PAPANTONIO:

11 Q. That's all I'm trying to get

12 at.

13 Now the next paragraph it says,

14 "The ARCOS data further shows that in the

15 following year, 2007, McKesson shipped

16 2,624,680 hydrocodone pills and 40,900

17 oxycodone pills to Sav-Rite Pharmacy No. 1.

18 This is equivalent to an average of 218,723

19 hydrocodone pills per month, or 7,191

20 hydrocodone pills per day."

21 Now, sir, if that was shipped

22 into Kermit, those are startling numbers,

23 aren't they? I mean, look, just common

24 sense, those are startling numbers. And I'm

25 not saying you did that, but those are

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1 startling numbers, aren't they?

2 MS. HENN: Objection to form.

3 QUESTIONS BY MR. PAPANTONIO:

4 Q. To a population of 406 people?

5 A. Again, those are large numbers,

6 but again I would -- you know, the context of

7 the prescribing area and the population that

8 that pharmacy may serve could change those a

9 little bit. Doesn't mean it's not -- they're

10 not still large numbers.

11 Q. Well, you know the DEA

12 evaluated that, and we'll talk about that in

13 a moment. They looked around to see how does

14 Kermit compare to other parts of West

15 Virginia.

16 You know that, right? Correct?

17 A. I think so.

18 Q. Okay.

19 A. You'll have to refresh my

20 memory on that.

21 Q. So in other words, the idea of

22 saying, well, there were just more hospitals

23 around Kermit or more pharmacies, that

24 doesn't get that many pills into Kermit, does

25 it?

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1 MS. HENN: Objection to form.

2 THE WITNESS: I understand.

3 QUESTIONS BY MR. PAPANTONIO:

4 Q. Okay. All right. It says, "In

5 that same year, other distributors shipped

6 1,651,160 total opioids to this pharmacy,"

7 meaning that Sav-Rite No. 1 received --

8 received a total of 4,316,740 doses of

9 opioids pills from all distributors in 7 --

10 in 2007.

11 Now, let me just take a minute

12 here at this very place where we're talking

13 about those number of pills, and let me go

14 back and talk to you about this picture that

15 deals with glut. Okay?

16 I'm going to use the word

17 "glut." If that doesn't work for you, let's

18 call it an overabundance of pills, if you

19 want.

20 But if the people there can't

21 absorb all of these pills that we're talking

22 about, the glut has to go somewhere. That's

23 the point I'm trying to make.

24 Do you understand that?

25 A. I understand your point.

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1 Q. All right. And one place that

2 the glut goes is it's diverted to other parts

3 of that area. You would agree with that,

4 right?

5 MS. HENN: Objection to form.

6 QUESTIONS BY MR. PAPANTONIO:

7 Q. We know that for a fact?

8 A. It can be, yes.

9 Q. All right. Let's go now back

10 to this. And it says -- all right. I'm at

11 the top of page 3. The top of page 3 says,

12 "McKesson alone supplied Sav-Rite No. 1 with

13 roughly eight times the amount of hydrocodone

14 for an average retail pharmacy in rural West

15 Virginia in 2006."

16 In 2006, you were still at

17 Target; is that a correct statement? You

18 weren't at -- you were not at McKesson?

19 A. I was at Target.

20 Q. And almost ten times the amount

21 of hydrocodone that an average retail

22 pharmacy -- here's what I'm getting at, you

23 see. They've looked at average comparisons,

24 and it says that that's -- first of all, you

25 see --

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1 MR. PAPANTONIO: Underline  
2 McKesson at the top of that paragraph  
3 there. McKesson. We're talking about  
4 McKesson. We're not talking about any  
5 other company besides McKesson.  
6 QUESTIONS BY MR. PAPANTONIO:  
7 Q. It says, "McKesson alone" --  
8 MR. PAPANTONIO: Underline  
9 "alone," please.  
10 QUESTIONS BY MR. PAPANTONIO:  
11 Q. -- "supplied Sav-Rite No. 1  
12 with roughly eight times the amount of  
13 hydrocodone that an average retail pharmacy  
14 in rural West Virginia received in 2006, and  
15 almost ten times the amount of hydrocodone  
16 that an average retail pharmacy -- that an  
17 average retail pharmacy in rural West  
18 Virginia received in 2007."  
19 To be real clear -- I want to  
20 make it clear -- this all had happened by the  
21 time you got there, correct?  
22 A. It did.  
23 Q. It wasn't -- at this point  
24 there's nothing you can do about water under  
25 that bridge. There's nothing you can do

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1 about what happened in Kermit.  
2 Can we agree to that?  
3 MS. HENN: Objection to form.  
4 THE WITNESS: Agreed.  
5 QUESTIONS BY MR. PAPANTONIO:  
6 Q. Now, let's go down to -- let's  
7 go down here, B. It says, "B, McKesson  
8 resumed supplying opioids to Sav-Rite after  
9 federal authorities began investigating the  
10 pharmacy and after press accounts publicized  
11 law enforcement raids on the pharmacy."  
12 Now -- okay. They'd had -- the  
13 place had been raided by the DEA, right?  
14 They -- they -- everybody  
15 understood at this point that the numbers for  
16 400 -- a population of 406 people were ten  
17 times what they should have been compared to  
18 the average pharmacy, right?  
19 According to what we just saw,  
20 true?  
21 MS. HENN: Objection to form.  
22 THE WITNESS: According to  
23 what's in here, correct.  
24 QUESTIONS BY MR. PAPANTONIO:  
25 Q. All right. And then it goes

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1 down and says, "In March 2008, federal  
2 authorities began investigating Sav-Rite  
3 No. 1 and a medical complex owned by  
4 individuals associated with Sav-Rite. In  
5 2009, authorities conducted a raid on the  
6 medical complex and on Sav-Rite. This raid  
7 was publicized by, among other sources, the  
8 Huntington, West Virginia, Herald Tribune,  
9 which reported" -- let's go to the next page.  
10 Now, first of all, I want to  
11 say this: You've been here all day long and  
12 people have been asking you tough questions,  
13 but I want to -- I want to say this: You  
14 knew that the importance of looking at news  
15 reports was something that you did in your  
16 regulatory process, right?  
17 MS. HENN: Objection to form.  
18 QUESTIONS BY MR. PAPANTONIO:  
19 Q. When you came along, you said,  
20 "I'm going to look at news reports because  
21 that's important," true?  
22 A. It's part of the information,  
23 yeah.  
24 Q. We talked about a few already,  
25 but we're going to talk about some more.

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1 A. Yeah.  
2 Q. But back here they're taking --  
3 they're saying that the Gazette newspaper  
4 right there in town was telling this story.  
5 And let's read what it said. Let's see what  
6 the Gazette said in that newspaper report.  
7 It says, "In an area with a  
8 population of just a few hundred, the two  
9 Sav-Rite pharmacies received millions of  
10 doses -- units of the painkiller hydrocodone  
11 in 2006, enough to rank 22nd nationally in  
12 most hydrocodone units purchased by retail  
13 pharmacies."  
14 It says, "One federal agent who  
15 investigated the pharmacies said  
16 prescriptions are filled in such a rate that  
17 Sav-Rite workers literally throw bags  
18 containing the drugs over a divider and onto  
19 a counter in order to keep up the pace. The  
20 agent also noticed that one cash drawer was  
21 so full that the clerk could not get it to  
22 close properly."  
23 Now, let me take you back up  
24 with a couple of facts.  
25 When you came along -- what

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1 year was it?  
2 A. 2014.  
3 Q. 2014.  
4 This would have been a pretty  
5 important bit of information for you if you  
6 read that in the newspaper, wouldn't it? If  
7 you saw that handle in the newspaper, that  
8 would be pretty important to Mr. Hartle,  
9 correct?  
10 MS. HENN: Objection to form.  
11 THE WITNESS: It would be  
12 important.  
13 QUESTIONS BY MR. PAPANTONIO:  
14 Q. And the truth is, at this point  
15 McKesson was selling 75 percent of the  
16 narcotics that were going to this area,  
17 correct? According to what we just read,  
18 75 percent --  
19 MS. HENN: Objection to form.  
20 QUESTIONS BY MR. PAPANTONIO:  
21 Q. -- right?  
22 A. According to what you shared  
23 earlier and what's in here, yes.  
24 Q. Okay. And so 75 percent of  
25 this problem that we're looking at -- well,

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1 let me scratch that. I'll just keep on  
2 reading so we can get through this.  
3 It says, "The owner of  
4 Sav-Rite, James Wooley, was ultimately  
5 convicted of conspiracy to acquire or obtain  
6 controlled substances and sentenced to prison  
7 in 2012."  
8 Mr. Hartle would have never  
9 made the decision to go back and do business  
10 with these people after all this happened,  
11 would you?  
12 MS. HENN: Objection to form.  
13 QUESTIONS BY MR. PAPANTONIO:  
14 Q. I'm trying to use your  
15 judgment. Understand, the raid took place;  
16 man went to prison; McKesson's selling  
17 75 percent of the drugs. It's 10 percent --  
18 it's ten times the national average of  
19 narcotics.  
20 Are you going to go back and do  
21 business with Sav-Rite?  
22 MS. HENN: Objection to form.  
23 QUESTIONS BY MR. PAPANTONIO:  
24 Q. You think that's good judgment?  
25 A. I would need to have --

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1 MS. HENN: Same objection.  
2 THE WITNESS: -- the full  
3 context of all the information and --  
4 before I made that decision.  
5 QUESTIONS BY MR. PAPANTONIO:  
6 Q. How about just the information  
7 I gave you just then? Is that something that  
8 would possess you to go back and do business  
9 with them?  
10 MS. HENN: Objection to form.  
11 THE WITNESS: That would be  
12 part of the information to make the  
13 decision.  
14 QUESTIONS BY MR. PAPANTONIO:  
15 Q. Yeah. It'd be important  
16 information, wouldn't it?  
17 A. Certainly it's important  
18 information.  
19 Q. Yeah.  
20 It says, "It does not appear  
21 that McKesson shipped drugs to Sav-Rite No. 1  
22 between 2008 and 2010; however, DEA data  
23 acquired by the committee indicates that in  
24 2011 McKesson again began shipping drugs to  
25 Sav-Rite No. 1."

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1 Do you see that?  
2 A. I see that.  
3 Q. Now, let's take a look at the  
4 last paragraph there. "According to federal  
5 search warrant, Sav-Rite Kermit was ranked  
6 22nd in the nation among retail pharmacies  
7 with respect to purchase of hydrocodone dose  
8 units. The average per pharmacy, 2006, was  
9 97,431. Reports citing residents of Kermit  
10 and surrounding region state that everyone in  
11 Kermit, just about everyone in the wooded  
12 hollows of Mingo County" -- that's where my  
13 partner there, Paul Farrell, is from.  
14 You met Paul Farrell yesterday,  
15 right?  
16 A. I did.  
17 Q. Yeah. It says, "They knew that  
18 Sav-Rite was a pill mill." Sav-Rite was a  
19 pill mill.  
20 What is a pill mill in your  
21 definition of a pill mill?  
22 A. I mean, you could describe them  
23 in many ways, but diverting drugs, you know,  
24 not dispensing for legitimate medical  
25 reasons.



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1 Q. And in the records of McKesson  
2 we'll get to in a minute, you remember  
3 pictures of pill mills actually being  
4 included in PowerPoints that were presented  
5 at McKesson, at their meetings, actual  
6 PowerPoints of what pill mills looked like,  
7 people standing around in line.  
8 You remember pictures like  
9 that, don't you?  
10 A. I do.  
11 Q. Okay. It says, "Press reports  
12 describe a stampede of customers frequenting  
13 the pharmacy, so many that the town had to  
14 hire an extra police officer to handle a  
15 spike in crime, extra crews to clean up the  
16 mess that the clientele left behind."  
17 Now here's my -- here's my  
18 question: Why should taxpayers be  
19 responsible for cleaning up the mess that was  
20 left by McKesson because of what was created  
21 by this glut of pills in this town?  
22 MS. HENN: Objection to form.  
23 QUESTIONS BY MR. PAPANTONIO:  
24 Q. Do you think that's fair, for  
25 taxpayers that have nothing to do with all

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1 this -- they didn't make a dime on selling  
2 narcotics. McKesson made the money selling  
3 narcotics.  
4 Why should taxpayers have to  
5 pay for increased EMTs, for increased police,  
6 for cleaning up the mess? Why should  
7 taxpayers have to pay for that?  
8 MS. HENN: Objection to form.  
9 QUESTIONS BY MR. PAPANTONIO:  
10 Q. Do you have a good reason for  
11 that, why taxpayers should foot that bill?  
12 MS. HENN: Same objection.  
13 THE WITNESS: I don't have a  
14 good reason.  
15 QUESTIONS BY MR. PAPANTONIO:  
16 Q. Yeah.  
17 In other words, taxpayers  
18 didn't make money on this. McKesson made --  
19 what were you making -- how many billion  
20 dollars a year on the average was McKesson  
21 making on selling these pills?  
22 MS. HENN: Objection to form.  
23 THE WITNESS: Again, I don't  
24 know specific numbers on --  
25

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1 QUESTIONS BY MR. PAPANTONIO:  
2 Q. 6 billion? 7 billion?  
3 MS. HENN: Objection to form.  
4 QUESTIONS BY MR. PAPANTONIO:  
5 Q. Does that sound right?  
6 A. At this time, I don't know what  
7 the numbers were.  
8 Q. But it was in the billions,  
9 right?  
10 MS. HENN: Objection to form.  
11 QUESTIONS BY MR. PAPANTONIO:  
12 Q. It was in the billions.  
13 McKesson was making billions of dollars  
14 selling narcotics in places like we're  
15 talking about right here, correct?  
16 MS. HENN: Objection to form.  
17 THE WITNESS: It could be. I'd  
18 have to understand the total and the  
19 percentages, and I'm not 100 percent  
20 sure on that.  
21 QUESTIONS BY MR. PAPANTONIO:  
22 Q. So my question is: If you're  
23 making billion -- if you're making money, why  
24 should taxpayers have to pay for cleaning up  
25 the mess that was left behind while you were

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1 making that money?  
2 You don't feel like that's  
3 fair, do you?  
4 MS. HENN: Objection to form.  
5 QUESTIONS BY MR. PAPANTONIO:  
6 Q. That's not fair, is it?  
7 A. I don't have a response for  
8 you.  
9 Q. Mr. Hartle, you know what, I've  
10 become accustomed to us talking logic and  
11 common sense. So let me continue that.  
12 Okay?  
13 Let me ask you this question:  
14 It doesn't seem fair that taxpayers should  
15 have to foot the bill for EMTs, for police,  
16 for hospital care, for court costs that might  
17 be attributed to a glut of pills being  
18 shipped into an area like this by McKesson.  
19 That's just not fair, is it?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: I think logically  
22 it doesn't seem fair, but --  
23 QUESTIONS BY MR. PAPANTONIO:  
24 Q. That's all --  
25 A. -- but there's many -- there's

<p style="text-align: right;">Page 470</p> <p>1 many involved in the -- you know, in the  2 entire system.  3 Q. I get that. I get that.  4 But you would agree that  5 wouldn't be fair. We can at least move on  6 from there, right?  7 MS. HENN: Objection to form.  8 QUESTIONS BY MR. PAPANTONIO:  9 Q. Yes?  10 A. We can move on from there.  11 Q. Okay. So let me go down here.  12 It says, A. Go down -- see where it says,  13 "According to DEA data, McKesson supplied a  14 pharmacy in Mount Gay-Shamrock" --  15 MR. PAPANTONIO: Ms. Henn, tell  16 me when I'm -- you're watching the  17 time; I'm not.  18 MS. HENN: That's not what was  19 that was about, but the videographer  20 can tell you.  21 MR. PAPANTONIO: How much time  22 do I have left here?  23 VIDEOGRAPHER: 18 minutes, sir.  24 MR. PAPANTONIO: 18 minutes.  25 THE WITNESS: What page are you</p>	<p style="text-align: right;">Page 472</p> <p>1 amount of the hydrocodone that an average  2 pharmacy in rural West Virginia would have  3 been expected to receive."  4 I read that.  5 Then it goes on to say,  6 "DEA" --  7 MR. PAPANTONIO: When I'm ten  8 minutes -- let me know when I'm ten  9 minutes out.  10 QUESTIONS BY MR. PAPANTONIO:  11 Q. "DEA ARCOS data showed that  12 between 2006 and 2014, McKesson supplied  13 Family Discount Pharmacy in Mount Shamrock  14 {sic} with 5,122,290 {sic} hydrocodone  15 pills" -- you see that? -- "and 695,000  16 oxycodone pills, for a total of 5,818,020  17 pills."  18 Do you know what the -- do you  19 know what the population of that place was?  20 If I told you it was 1,700,  21 would you be surprised? Population of 1,700  22 people, would that surprise you?  23 MS. HENN: Objection to form.  24 THE WITNESS: It would surprise  25 me. I don't know what the number is,</p>
<p style="text-align: right;">Page 471</p> <p>1 on, sir?  2 QUESTIONS BY MR. PAPANTONIO:  3 Q. I'm on the same page.  4 A. On the same page still?  5 Q. I'm on the same page.  6 It says, "According to DEA  7 data, McKesson supplied a pharmacy in Mount  8 Gay-Shamrock, West Virginia, with more than  9 six times the amount of hydrocodone that an  10 average pharmacy in rural West Virginia would  11 have been expected to receive."  12 Do you see that?  13 A. I'm sorry, I was on the  14 previous page. Let me read that real quick.  15 Q. "According to DEA data." Yeah.  16 Yeah.  17 "According to the DEA data,  18 McKesson supplied a pharmacy in Mount  19 Gay-Shamrock, West Virginia, with more than  20 six times the amount of hydrocodone" --  21 It's talking about McKesson  22 here, right?  23 A. I see that.  24 Q. Okay.  25 -- "more than six times the</p>	<p style="text-align: right;">Page 473</p> <p>1 but...  2 QUESTIONS BY MR. PAPANTONIO:  3 Q. If it's only 1,700, those are  4 startling numbers, aren't they?  5 A. It's a small population.  6 Q. Yeah.  7 Okay. It says, "McKesson  8 provided this pharmacy with 986,500 oxycodone  9 pills, in addition to 300,100 oxycodone  10 pills, a 193 percent increase from the year  11 prior."  12 Do you see that? "193 percent  13 increase from the year prior" in the amount  14 of narcotics that they're selling to this  15 area.  16 And from -- "this equals an  17 average rate in 2013 of 82,000 hydrocodone  18 pills per month or 2,703 pills per day."  19 You see that?  20 A. I see those numbers.  21 Q. "And 25,000 oxycodone pills per  22 month."  23 Now, what I'm asking you did  24 you ever go back and look at this? When you  25 came into your job, did you go back and look</p>

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1 at these kind of numbers and say, "We must do  
2 better. People are dying because of this.  
3 We must do better"?

4 Did you ever do that?

5 MS. HENN: Objection to form.

6 THE WITNESS: I didn't  
7 specifically go back and look at these  
8 numbers, but as I came in, and why I  
9 joined McKesson, was to help evolve  
10 the program and do better and evolve  
11 the processes.

12 QUESTIONS BY MR. PAPANTONIO:

13 Q. But by the time you came  
14 along --

15 MR. PAPANTONIO: Can I see the  
16 death map again, please?

17 QUESTIONS BY MR. PAPANTONIO:

18 Q. You came about -- would you  
19 look at the death map, please? By the time  
20 you came along in -- did you say 2014?

21 A. 2014.

22 Q. Show the jury -- let's put up  
23 on the screen. If you got there 2014, let's  
24 look at the damage that was already done even  
25 before you were able to do a thing,

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1 Mr. Hartle.  
2 2014, that's the map.  
3 You see that?

4 A. I've seen that.

5 Q. Okay. And between me and you,  
6 I don't hold you responsible for that, but  
7 you understand that's what you walked into.

8 A. I understand that.

9 MR. PAPANTONIO: All right.  
10 We're going to take a quick break and  
11 save ten minutes and see if we can  
12 wrap this up real quick.

13 MS. HENN: All right.

14 MR. PAPANTONIO: Thank you.

15 VIDEOGRAPHER: The time is  
16 5:25 p.m., and we're going off the  
17 record.  
18 (Off the record at 5:25 p.m.)

19 VIDEOGRAPHER: The time is  
20 5:34 p.m., and we're back on the  
21 record.

22 QUESTIONS BY MR. PAPANTONIO:

23 Q. Sir, the -- in document 1165 --  
24 let me show this to you and just put this up  
25 on the screen. This is 1280. I'll get to

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1 this. It's in 1165, what I'm looking for.  
2 1280.

3 MR. PAPANTONIO: This is --  
4 we're going to give you a copy of  
5 these pictures.

6 MS. HENN: Okay. Just as  
7 long --

8 MR. PAPANTONIO: They are  
9 attached -- just so you know, they are  
10 attached to 1165.

11 MS. HENN: I see.

12 MS. MOORE: This is  
13 McKesson-Hartle 135.  
14 (McKesson-Hartle Exhibit 135  
15 marked for identification.)

16 MR. PAPANTONIO: Sir, do we  
17 have that? Do we have that, Corey?  
18 Do we have those pictures? Because I  
19 can put them up on the -- I can put  
20 them on right here if you don't.

21 Okay. Let me go -- oh, there  
22 they are. Okay.

23 QUESTIONS BY MR. PAPANTONIO:

24 Q. Sir, these pictures, you've  
25 seen pictures similar to this in your own --

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1 in your own PowerPoints, right? These are  
2 actually pictures of -- let me just represent  
3 to you, these are pictures of pill mills.

4 A. I've seen pictures like this,  
5 yes.

6 Q. Okay. And the other part of  
7 it, you see these people, they're sitting  
8 outside the pill mill waiting to get pills.  
9 Do you see that?

10 A. I do see that.

11 Q. And you've seen similar  
12 pictures to this in the past, right?

13 A. I have.

14 Q. And it's actually -- some of  
15 these pictures have actually appeared in some  
16 of the -- some of your literature, some of  
17 your PowerPoints, correct?

18 A. Correct.

19 Q. Okay. Let's mark --

20 MR. PAPANTONIO: Did we mark  
21 this picture right here?

22 MS. HENN: Yes.

23 MR. PAPANTONIO: Okay.

24 QUESTIONS BY MR. PAPANTONIO:

25 Q. And then I -- let me just go

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1 through some -- through a couple -- we don't  
2 have much time, but let me just go through a  
3 couple of other things.  
4 Your theory about -- again,  
5 about newspaper articles and reading them and  
6 why it's so important for people to know  
7 what's going on in the news, I want to show  
8 you 951.  
9 Had you ever heard of a town of  
10 Williamson in West Virginia that actually  
11 took on the name of Pilliamson?  
12 MS. MOORE: McKesson-Hartle  
13 101.  
14 (McKesson-Hartle Exhibit 101  
15 marked for identification.)  
16 QUESTIONS BY MR. PAPANTONIO:  
17 Q. Had anybody ever told you that  
18 the problem was so bad all the way back in  
19 2011 -- this is the Charleston Gazette-Mail.  
20 And, sir, this is actually -- had you seen  
21 see this article before? This the  
22 Gazette-Mail talking about the very area  
23 we've been talking about.  
24 A. I'm not sure.  
25 Q. Okay. Well, just for the

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1 record, I want to point out that as we go  
2 forward, this is a document -- this is a  
3 newspaper article that is actually attached  
4 to the Congressional record.  
5 A. Okay.  
6 Q. This came out of the hearings  
7 of the Congressional record.  
8 A. Okay.  
9 Q. But I just want to ask you:  
10 Had you ever heard of Williamson, West  
11 Virginia, being -- it called Pilliamson?  
12 Headline's "2011," that's the date,  
13 "prescription drug abuse plagues small West  
14 Virginia town." And that's in the  
15 Gazette-Mail. And then it says, "a Pulitzer  
16 Prize-winning newspaper."  
17 Have you ever seen that before,  
18 the term "Pilliamson," I guess is what I'm  
19 wondering.  
20 A. I believe I may have, yes.  
21 Q. And it says -- I have it  
22 right -- it says, "A couple of blocks away,  
23 people lined up before 6 a.m. to visit  
24 another doctor's -- another clinic's doctor.  
25 The community was frustrated. They called it

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1 Pilliamson instead of Williamson, said Mingo  
2 County prosecuting attorney Michael Sparks.  
3 It was an open secret, you might say, federal  
4 and state authorities are handling an ongoing  
5 investigation of the clinics, but Sparks says  
6 prescription drug abuse causes most of the  
7 local crimes he prosecutes - robberies,  
8 assaults, forgery."  
9 Do you see that?  
10 "Even though the clinics are  
11 now shuttered, substance abuse still plagues  
12 the area. People can still find pills."  
13 Do you see that?  
14 A. I do.  
15 Q. Now, you understand the  
16 other -- the other part of this. You  
17 understand once opioids -- once people are  
18 addicted to opioids, narcotic opioids, their  
19 chances of them moving to heroin are  
20 dramatically increased.  
21 You've heard that before,  
22 right?  
23 A. I have.  
24 Q. I think you've actually --  
25 A. It's in my presentations.

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1 Q. It's in your presentation.  
2 You've talked to people about it.  
3 When you were trying to warn  
4 other people about this issue, this is  
5 something you raised, that the natural  
6 progression goes from opioids to heroin,  
7 true?  
8 MS. HENN: Objection to form.  
9 QUESTIONS BY MR. PAPANTONIO:  
10 Q. You know that?  
11 A. I've shared some of those data  
12 points about the -- you know.  
13 Q. Yeah.  
14 So I don't have to go into  
15 that. You would agree that that is a fact of  
16 life, true?  
17 MS. HENN: Objection to form.  
18 QUESTIONS BY MR. PAPANTONIO:  
19 Q. True? That's all I am asking.  
20 A. Again, I agree that -- what  
21 I've read and did -- I did.  
22 Q. Yes, sir.  
23 Okay. This is a chart that is  
24 a -- also a part of 1165, document there in  
25 front of you. It's on page -- it's on .7 of



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1 1165.  
2 No, sir, it's not in there.  
3 It's in 1165. Let me hand you another copy  
4 just so I make sure you have it.  
5 MS. MOORE: McKesson-Hartle  
6 134.  
7 (McKesson-Hartle Exhibit 134  
8 marked for identification.)  
9 QUESTIONS BY MR. PAPANTONIO:  
10 Q. If you'll go to their --  
11 Mr. Hartle, if you'll look at page 7, .7 --  
12 let's say .7 in the top right-hand corner.  
13 A. Okay.  
14 Q. Is that -- do you see a chart  
15 there?  
16 A. Yes.  
17 Q. Okay. That chart, if you'll  
18 notice -- and I think this is -- the point I  
19 want to raise here is you see how -- when  
20 opioid -- opioid sales increase. Opioid  
21 sales actually grow during the same time that  
22 you see opioid deaths grow.  
23 Opioid sales is the green, is  
24 the green line, right? That's opioid sales?  
25 A. Correct.

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1 Q. That's actually -- you're  
2 actually increasing sales during these years  
3 that people -- that there's an increased  
4 amount of death. Your sales are increasing  
5 right in line with the increase of death.  
6 You see that?  
7 MS. HENN: Objection to form.  
8 QUESTIONS BY MR. PAPANTONIO:  
9 Q. I mean, isn't that --  
10 A. I see the sales. Yeah, I  
11 understand this chart.  
12 Q. Yeah, isn't that what -- that  
13 captures that, that if -- while McKesson is  
14 selling more narcotics, more people are  
15 dying. And this chart shows that, doesn't  
16 it? That's what that chart shows, right?  
17 MS. HENN: Objection to form.  
18 THE WITNESS: Sales across the  
19 country, anybody who sells controls,  
20 right.  
21 QUESTIONS BY MR. PAPANTONIO:  
22 Q. Yeah, but this is -- in other  
23 words, this is a document -- this is  
24 McKesson -- you see on the bottom, this is a  
25 McKesson document?

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1 MS. HENN: Objection to form.  
2 QUESTIONS BY MR. PAPANTONIO:  
3 Q. So you were aware -- I mean,  
4 there's no guesswork here. You know that as  
5 people continue to die, you were selling  
6 more. People were actually increasing  
7 addiction to opioids, which increased sales  
8 for McKesson.  
9 MS. HENN: Objection to form.  
10 QUESTIONS BY MR. PAPANTONIO:  
11 Q. Correct?  
12 A. I understand this visual and  
13 the trends of sales and --  
14 Q. Yeah.  
15 A. -- addiction.  
16 Q. Sir, before you got there, did  
17 you know about any discussion that the --  
18 that the management at McKesson had actually  
19 internalized in their business plan the glut  
20 sale of opioids that they knew was going move  
21 into diversion across the country?  
22 Did you -- had you ever heard  
23 any discussion that this glut, this extra --  
24 these extra pills that we're selling in  
25 places like Kermit, in Stollings, like we've

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1 just been seeing, that that was actually  
2 internalized as part of the business plan of  
3 McKesson to where they said, "Yeah, we know  
4 this is going on, but you know what, look  
5 what it's doing for business. It's  
6 increasing our business. It's increasing  
7 sales"?  
8 Before you got there -- I'm not  
9 suggesting you had anything to do with  
10 that -- but had you ever heard discussion  
11 about the internalization as a business plan  
12 of diversion of narcotic drugs from McKesson?  
13 MS. HENN: Objection to form.  
14 THE WITNESS: Not that I'm  
15 aware.  
16 QUESTIONS BY MR. PAPANTONIO:  
17 Q. All right. Fair enough.  
18 Sir, you would agree, won't  
19 you, if my partner there, Paul Farrell -- if  
20 Paul Farrell were -- just wanted to say,  
21 "Hey, this is a pretty good money maker. I  
22 want to go to Kermit and I just want to  
23 distribute 8 million pills," if he did that,  
24 he'd end up in prison, wouldn't he?  
25 MS. HENN: Objection to form.

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1 QUESTIONS BY MR. PAPANTONIO:  
2 Q. Wouldn't he?  
3 He can't do that. He can't  
4 go -- he can't go to Kermit and distribute 8  
5 million narcotic pills. He'd go to prison,  
6 wouldn't he?  
7 MS. HENN: Objection to form.  
8 THE WITNESS: He can't as an  
9 individual.  
10 QUESTIONS BY MR. PAPANTONIO:  
11 Q. Well, what if he was a  
12 corporation, he called it Farrell,  
13 Incorporated, and he likes the idea that he  
14 can make money selling narcotic pills because  
15 he's making a lot of money, what happens if  
16 he goes to Kermit and sells 8 million pills?  
17 Does he go to prison?  
18 MS. HENN: Objection to form.  
19 THE WITNESS: I don't know.  
20 QUESTIONS BY MR. PAPANTONIO:  
21 Q. Well, it's illegal, isn't it --  
22 MS. HENN: Objection to form.  
23 QUESTIONS BY MR. PAPANTONIO:  
24 Q. -- for him to go to town and  
25 sell 8 million pills. Paul Farrell shows up

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1 with a big bag of pills, 8 million pills, and  
2 starts selling them in Kermit, that's  
3 breaking the law, isn't he?  
4 MS. HENN: Objection to form.  
5 THE WITNESS: It depends on the  
6 scenario. Is he a distributor? I  
7 mean, I don't know.  
8 QUESTIONS BY MR. PAPANTONIO:  
9 Q. Well, that's the point, isn't  
10 it? That's the point.  
11 You had a special license to do  
12 that, and Paul Farrell doesn't, correct?  
13 That's the only thing that's different. You  
14 had a license to do it that you -- you had  
15 the license based on your obligation to  
16 follow the law. Not you, but McKesson. They  
17 had an obligation to follow the law, and in  
18 exchange they had the right to carry a big  
19 bag of pills and sell 8 million pills in  
20 Kermit, as long as they could justify it as  
21 legitimate distribution, true?  
22 MS. HENN: Objection to form.  
23 THE WITNESS: Wouldn't  
24 characterize it like that. We had a  
25 license to sell all sorts of

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1 prescription drugs for many, many  
2 reasons.  
3 QUESTIONS BY MR. PAPANTONIO:  
4 Q. But the difference between you  
5 and Paul, my partner, Farrell there, he  
6 doesn't have a license. So he did that, he  
7 sold 8 million extra glut -- excess pills in  
8 Kermit, he'd be in a lot of trouble, wouldn't  
9 he?  
10 MS. HENN: Objection to form.  
11 THE WITNESS: I'm not sure. He  
12 could.  
13 QUESTIONS BY MR. PAPANTONIO:  
14 Q. Yeah. The difference is you  
15 had a license to do it. Your company had a  
16 license that was given to you by the  
17 taxpayers of this country, by the consumers  
18 in this country.  
19 You had the right to sell this  
20 drug only because you had that license,  
21 right?  
22 MS. HENN: Objection to form.  
23 QUESTIONS BY MR. PAPANTONIO:  
24 Q. Right?  
25 A. They gave us the right to sell

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1 those drugs.  
2 Q. And in exchange, all they asked  
3 for is just follow the law. Just follow the  
4 law, report suspicious orders, right? That's  
5 all they asked you to do: Report suspicious  
6 orders, and don't sell too many pills  
7 throughout this country. Don't sell too many  
8 pills in places like Kermit.  
9 That's all they asked you to  
10 do, right?  
11 MS. HENN: Objection to form.  
12 THE WITNESS: Do our part to  
13 prevent diversion.  
14 QUESTIONS BY MR. PAPANTONIO:  
15 Q. Yeah. And in exchange they  
16 handed you a license, and you could go make  
17 money with that license, right?  
18 A. We can.  
19 MR. PAPANTONIO: All right.  
20 Thank you, sir. I don't have any  
21 further questions.  
22 MS. HENN: Okay. Let's go off  
23 the record. I do have some questions,  
24 and we'll need to change spots.  
25 VIDEOGRAPHER: Okay. The time

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1 is 5:46 p.m. We're going off the  
2 record.  
3 (Off the record at 5:46 p.m.)  
4 VIDEOGRAPHER: The time is  
5 5:48 p.m. We're back on the record.  
6 CROSS-EXAMINATION  
7 QUESTIONS BY MS. HENN:  
8 Q. Good afternoon, Mr. Hartle.  
9 A. Good afternoon.  
10 Q. You testified yesterday and  
11 today that you joined McKesson in 2014; is  
12 that right?  
13 A. I did.  
14 Q. Before joining McKesson, you  
15 explained that you worked at Target?  
16 A. I did.  
17 Q. What positions did you hold at  
18 Target?  
19 A. I had a variety of positions in  
20 the almost 19 years that I worked for Target.  
21 I worked in both the assets protection and  
22 the corporate security divisions and held  
23 many different roles at many different  
24 levels, from being in the actual stores to  
25 leading districts or groups or larger groups

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1 of stores, primarily focused on threat and  
2 fraud in investigations.  
3 I additionally led some of the  
4 more specialized strategies for Target  
5 related to things like organized retail crime  
6 and fraud.  
7 I worked at headquarters for  
8 several years helping develop strategies and  
9 building specialized teams, including one  
10 focused on health care.  
11 Q. Could you describe the team  
12 that you were involved with at Target that  
13 focused on health care?  
14 A. Sure.  
15 It was a team that was designed  
16 to do several different things. I had been  
17 involved in investigating pharmacy cases for  
18 years, all way back to when I was in the  
19 stores. This team was designed to, you know,  
20 help identify and support investigations of  
21 pharmacy cases in the field, develop new ways  
22 to identify theft in pharmacies through data  
23 and in other ways was designed to help  
24 develop tools to monitor dispensing of Target  
25 stores, and at the base code level across the

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1 country to drive action and follow up with  
2 different locations.  
3 We used other analytics related  
4 to prescribers to determine when we may want  
5 to shut off a particular prescriber, and we  
6 also monitored trends across the country and  
7 proactively engaged with different offices of  
8 diversion control.  
9 All of that helped us also  
10 influence and help teach and train Target  
11 internally and help revise policies and  
12 procedures related to pharmacy and diversion  
13 specifically.  
14 Q. When you joined McKesson in  
15 2014, you were a senior director of  
16 regulatory affairs?  
17 A. Yes.  
18 Q. Why did you join McKesson in  
19 2014?  
20 A. I had a great career at Target  
21 and many opportunities, in fact had just been  
22 given some additional responsibilities, but  
23 have always been driven by the work that  
24 we -- my team started and was doing at Target  
25 related to diversion. I had an opportunity

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1 to help teach and train Target team members,  
2 help build programs and processes focused on  
3 diversion.  
4 And when an opportunity came up  
5 with McKesson, you know, I -- you know, it  
6 allowed me and I felt like I could make a  
7 bigger difference across multiple chains. If  
8 I could replicate some of the things that I  
9 was doing at Target in any way and help other  
10 chains and be involved, personally I think I  
11 could help make a difference.  
12 Q. And in that vein, did you have  
13 a particular focus as senior director of  
14 regulatory affairs at McKesson?  
15 A. Yeah, I was hired to focus on  
16 the chains and -- oh.  
17 Q. Go ahead.  
18 A. I was going to say, and as I  
19 came on board, my initial focus was to get to  
20 know the chains, to conduct some due  
21 diligence, understand their programs and help  
22 build out and formalize, you know, the focus  
23 on the chains over the course of time.  
24 Q. You testified yesterday and  
25 earlier today about the evolution of

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1 McKesson's controlled substance monitoring  
 2 program.  
 3 How would you describe that  
 4 evolution?  
 5 A. Well, I clearly wasn't here at  
 6 McKesson prior to 2014, but I understand that  
 7 some of the core elements related to  
 8 Section 55 and some of the things associated  
 9 with suspicious order reporting -- or reports  
 10 and processes, you know, they advanced and  
 11 continued to evolve.  
 12 And with the Lifestyle drug  
 13 program we're taking feedback and information  
 14 to add another element to that program to  
 15 include focusing on some key drugs, building  
 16 a review process. Continue to advance over  
 17 time, specifically in 2008, to hard-code the  
 18 threshold methodology or mechanism in the  
 19 system. So in 2008, they assigned thresholds  
 20 across all base codes, all customers, and  
 21 those served as the mechanism to block  
 22 suspicious orders.  
 23 And so over time it's evolved.  
 24 And as I came on board, we've continued that  
 25 evolution to try to continue to enhance not

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1 just on the ISMC side of the business but  
 2 specifically on my team and related to chains  
 3 as well.  
 4 Q. And you mentioned the  
 5 thresholds that were implemented.  
 6 What happened at McKesson when  
 7 a customer's order exceeded its threshold for  
 8 a particular base code?  
 9 A. When those thresholds were  
 10 established in 2008 and that mechanism was  
 11 put into place, any order that exceeded the  
 12 threshold was blocked and not shipped.  
 13 Q. During what period of time has  
 14 that been the case?  
 15 A. Since they were implemented in  
 16 early 2008.  
 17 Q. Turning to the role that you've  
 18 played at McKesson, the interactions you've  
 19 had with retail national accounts, how have  
 20 you -- well, could you describe how you and  
 21 your team interact with customers who are  
 22 part of your retail national accounts?  
 23 A. We interact in a variety of  
 24 ways. When I first came on board, it was a  
 25 lot of getting to know the chains and their

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1 programs, you know, talking with them and  
 2 learning about what type of structure do they  
 3 have, what type of oversight and compliance  
 4 and specific teams do they have, what type of  
 5 policies and procedures do they have related  
 6 to controlled substances, what type of  
 7 education and training are they getting as  
 8 chains, what are they providing to their  
 9 teams and their stores and their pharmacies,  
 10 how are they using data to identify areas for  
 11 follow up and how are they following up on  
 12 pharmacies.  
 13 So part of that -- what we do  
 14 with chains was get to know them at the very  
 15 beginning when I came on board, but  
 16 throughout the course of my time with  
 17 McKesson, we continued to engage at different  
 18 points in the process. We meet when we  
 19 on-board chains. I will go meet with them  
 20 personally at their headquarters locations.  
 21 When stores -- when new stores  
 22 are on-boarded, we take that opportunity to  
 23 do our reviews and at times connect with the  
 24 teams.  
 25 When threshold change requests

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1 come in, we're working directly with the  
 2 chain teams on the requests, getting the data  
 3 from them, talking about the justification,  
 4 things like that.  
 5 So we take every opportunity we  
 6 can to engage and continue to learn about the  
 7 chains, along with our regular review of data  
 8 to monitor them.  
 9 Q. Tell me about the policies and  
 10 procedures that McKesson expects chains to  
 11 have in place.  
 12 A. It's similar to what I shared.  
 13 We expect there to be oversight. We expect  
 14 there to be policies and procedures. We  
 15 expect there to be, you know, use of data,  
 16 you know. We get -- chains may use data.  
 17 All of these things may -- they may do in  
 18 slightly different ways, but the general  
 19 expectation is to have oversight, to have  
 20 policies and procedures, to have data to  
 21 review. And before a threshold change  
 22 request even comes to us, before we make our  
 23 own independent decision, to have a process  
 24 on their side to review them and do research.  
 25 So those are the types of



<p style="text-align: right;">Page 498</p> <p>1 expectations we have of chains.  2 Q. And you mentioned McKesson  3 making an independent decision about  4 threshold changes related to chains.  5 Could you describe that process  6 and what's involved?  7 A. Yeah. The way that threshold  8 requests work as part of our program today is  9 that a chain has their own process and  10 identifies a need or a request to come to us,  11 and they provide us the business  12 justification, they provide us dispensing  13 data.  14 And we have a complete separate  15 review, very consistent with what my peers do  16 on the independent side. We review the  17 business justification. We review the  18 purchasing data. We look at analytics  19 involved with purchasing data. We look at  20 dispensing. We do all of those types of  21 things, and we make our own separate  22 decision. And that means we don't always  23 approve every threshold. We don't always  24 approve it for the same amount. We cancel  25 some, we deny some, consistent with what</p>	<p style="text-align: right;">Page 500</p> <p>1 know, they're different or they may look  2 different. They may be associated with  3 long-term care or something like that. But  4 we reach out to them.  5 At times we've also learned  6 that chains have benefitted from that  7 information in terms of the shutting off a  8 doctor or a prescriber or going in to  9 re-review policies with the teams. And so  10 they oftentimes, you know, take our word and  11 go out and establish action plans on their  12 side of the business.  13 MS. HENN: Thank you,  14 Mr. Hartle. I have no further  15 questions.  16 Should we go off the record?  17 MR. RAFFERTY: Yeah. Yeah,  18 I'll swap back around. I've got to  19 grab a couple of documents.  20 VIDEOGRAPHER: The time is 6:00  21 p.m., and we're going off the record.  22 (Off the record at 6:00 p.m.)  23 VIDEOGRAPHER: The time is  24 6:03 p.m., and we're back on the  25 record.</p>
<p style="text-align: right;">Page 499</p> <p>1 works on the ISMC decide.  2 So we view our decision, and  3 the chains know we are there to make our own  4 regulatory decision.  5 Q. And we've talked about the  6 review that takes place surrounding threshold  7 change requests.  8 Are there also occasions when  9 McKesson may reach out to a chain about data  10 that it sees?  11 A. There are.  12 One of the other elements or  13 components of our general CSMP as a  14 regulatory affairs group is to do proactive  15 reviews, and at times we will -- we will  16 identify locations that we want to learn more  17 about. We may see something in the data. It  18 may just be the top dispensing location for a  19 chain, it may be related to a particular base  20 code, it may be related to something. But we  21 will reach out proactively to the chain  22 teams, and we expect -- our expectation is  23 that we learn why that might be different.  24 And many times the chains will  25 be able to explain to us why -- why, you</p>	<p style="text-align: right;">Page 501</p> <p>1 REDIRECT EXAMINATION  2 QUESTIONS BY MR. RAFFERTY:  3 Q. Mr. Hartle, you were just asked  4 some questions by your counsel. I just want  5 to follow up on a couple of them.  6 A. Sure.  7 Q. First of all, you were asked  8 about the evolution of the CSMP.  9 Do you recall that?  10 A. I do.  11 Q. And you talked about how you  12 continued to make improvements throughout  13 from 2008 forward, correct?  14 A. I remember that.  15 Q. All right. From 2008, you'll  16 agree with me, though, that your company,  17 McKesson, made an awful lot of mistakes that  18 fed and created the opioid epidemic for many,  19 many years, correct?  20 If we went through all of those  21 today, it resulted in two settlements in 2008  22 and one in 2017, based on numerous, numerous  23 failures to provide suspicious order reports,  24 correct?  25 MS. HENN: Objection to form.</p>

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1 THE WITNESS: Similar to what's  
2 in the most recent settlement, we  
3 acknowledged, you know, certain  
4 things.  
5 QUESTIONS BY MR. RAFFERTY:  
6 Q. Okay. And now that you're  
7 making -- I think what I showed you earlier,  
8 that now with your evolution of your CSMP,  
9 you now went from making zero -- for many  
10 years making zero suspicious order reports to  
11 making hundreds of thousands now.  
12 But my question is this:  
13 Because now you are making hundreds of  
14 thousands, we shouldn't -- you don't think  
15 that that should absolve McKesson of the  
16 deaths that you saw with my partner, Mike  
17 Papantonio, that were created because of the  
18 oversupply and McKesson shipping suspicious  
19 orders throughout the country, right?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: Could you ask  
22 that, please, again?  
23 QUESTIONS BY MR. RAFFERTY:  
24 Q. Yeah. Yeah.  
25 You talk about the evolution,

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1 but the fact of the matter is, is while this  
2 epidemic was going on, McKesson was  
3 continuing to flood the market with  
4 suspicious orders, which we've seen time and  
5 time again, many examples both that I went  
6 through and that my partner went through,  
7 showing pills being dumped in.  
8 You understand that, right?  
9 MS. HENN: Objection to form.  
10 THE WITNESS: I understand  
11 what's been shared, what we've talked  
12 about, yes.  
13 QUESTIONS BY MR. RAFFERTY:  
14 Q. Okay. All right. Now, because  
15 now you're claiming that there was some  
16 evolution and you're trying to tweak your  
17 process, that doesn't absolve McKesson of the  
18 responsibility for all of those deaths that  
19 have been created over the years, correct?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: I'm not saying  
22 that. We're not perfect, so we've  
23 been in good faith trying to evolve  
24 and do the right thing, and we've  
25 acknowledged some shortcomings,

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1 obviously.  
2 QUESTIONS BY MR. RAFFERTY:  
3 Q. Well, all of those -- I'm  
4 sorry, go ahead.  
5 A. We're trying to do the right  
6 thing and are trying to continue to advance  
7 the program.  
8 Q. Well, when you say you're not  
9 perfect, I mean, for many years, many, many  
10 years, that we went through with the failure  
11 to report suspicious orders, it was far from  
12 being perfect, wasn't it? Wasn't even close?  
13 MS. HENN: Objection to form.  
14 THE WITNESS: I understand  
15 there was some shortcomings, sure.  
16 QUESTIONS BY MR. RAFFERTY:  
17 Q. All right. Now one of the  
18 things that you also said to counsel was that  
19 the enhancements -- or I'm sorry. If any  
20 order -- talking about the thresholds. You  
21 said very emphatically: If any of order  
22 exceeded the threshold, it was blocked and  
23 not shipped, right?  
24 Remember that, when you told  
25 your counsel?

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1 A. From 2008 when we -- when we  
2 enhanced and we added thresholds for every  
3 base code.  
4 Q. That's not exactly true, is it?  
5 Because it could and was still shipped as  
6 long as a threshold change request was filed,  
7 right?  
8 MS. HENN: Objection to form.  
9 THE WITNESS: There could be  
10 thresholds that were processed.  
11 However, as part of the mechanism  
12 that -- if an order was received and  
13 if the threshold was X amount, if it  
14 exceeded that, those were blocked.  
15 That's what I was referring to.  
16 QUESTIONS BY MR. RAFFERTY:  
17 Q. Blocked. But they could be  
18 unblocked within hours by granting a  
19 threshold change request, true?  
20 MS. HENN: Objection to form.  
21 THE WITNESS: It was not an  
22 order-by-order -- a threshold -- it is  
23 true that a threshold request could be  
24 made and processed and then allow a  
25 customer to order, depending on the

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1 scenarios.  
 2 But the mechanism that  
 3 blocked -- that had the threshold in  
 4 place and the orders was intact.  
 5 QUESTIONS BY MR. RAFFERTY:  
 6 Q. Right. But --  
 7 A. Is what I was saying.  
 8 Q. -- they could be set aside for  
 9 things such as -- for as flimsy a reason as  
 10 we saw earlier as the Thanksgiving holiday.  
 11 Do you recall that?  
 12 MS. HENN: Objection to form.  
 13 THE WITNESS: There was a  
 14 process to change thresholds, yes.  
 15 QUESTIONS BY MR. RAFFERTY:  
 16 Q. Okay. Now, you also talked  
 17 with your counsel about this getting to  
 18 know -- when she said, how do you communicate  
 19 and how do you work with the chains, and you  
 20 talked about getting to know the customer and  
 21 going out and working with the customer, the  
 22 chain, right?  
 23 A. Correct.  
 24 Q. So you stay pretty in touch  
 25 with the chain, and you rely upon the chain

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1 to provide you information in terms of the  
 2 diversion, correct?  
 3 MS. HENN: Objection to form.  
 4 QUESTIONS BY MR. RAFFERTY:  
 5 Q. In terms of preventing  
 6 diversion?  
 7 MS. HENN: Objection to form.  
 8 THE WITNESS: Could you ask  
 9 that again?  
 10 QUESTIONS BY MR. RAFFERTY:  
 11 Q. Yeah.  
 12 In terms of -- when you say you  
 13 get to know the customer, you go out and you  
 14 continue to -- I think your quote is -- I  
 15 wrote down the quote -- "continue to learn  
 16 about the chains" even when they become  
 17 customers, right?  
 18 A. Correct.  
 19 Q. Now, let's talk about your  
 20 customers, because these customers include  
 21 Walgreens, right?  
 22 A. Walgreens is not part of the  
 23 retail national account chain. They have --  
 24 their relationship with McKesson is that they  
 25 have 340B specific accounts, the -- both

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1 health service accounts. So they're not a  
 2 chain that I manage and -- it's a different  
 3 part of the business.  
 4 Q. But they're a customer of --  
 5 A. They're a customer of  
 6 McKesson's.  
 7 Q. Okay. Were you aware in June  
 8 of 2030 -- 2013, Walgreens paid an  
 9 \$80 million fine for violation under the  
 10 Controlled Substance Act?  
 11 Were you aware of that?  
 12 A. Yes.  
 13 MS. HENN: Objection to form.  
 14 QUESTIONS BY MR. RAFFERTY:  
 15 Q. Okay. Were you aware that  
 16 CVS -- now, CVS is one of your customers,  
 17 right, that you monitor?  
 18 A. They are a customer.  
 19 Q. And that you were getting to  
 20 know.  
 21 When you were getting to know  
 22 CVS, did you know that in May of 2015 they  
 23 paid a \$22 million fine for unlawful  
 24 distribution of controlled substances?  
 25 MS. HENN: Objection.

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1 QUESTIONS BY MR. RAFFERTY:  
 2 Q. Were you aware of that?  
 3 MS. HENN: Objection to form.  
 4 THE WITNESS: I'm aware of  
 5 those.  
 6 QUESTIONS BY MR. RAFFERTY:  
 7 Q. Okay. Were you aware when you  
 8 were getting to know your customer of Costco?  
 9 Is that one of your customers?  
 10 A. It is.  
 11 Q. Okay. Did you know that in  
 12 2017, Costco paid an \$11.75 million fine?  
 13 Were you aware of that?  
 14 MS. HENN: Objection to form.  
 15 THE WITNESS: I'm aware of  
 16 that.  
 17 QUESTIONS BY MR. RAFFERTY:  
 18 Q. Now, also, you mentioned -- you  
 19 were asked questions about your work at  
 20 Target. So you said you actually did some  
 21 work in the pharmacy, in pharmacy security  
 22 and that type of thing at Target, right?  
 23 A. Yeah, I had a team -- yeah, in  
 24 a variety of different ways over the course  
 25 of time.

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1 Q. And were you there in 2012?

2 A. I was.

3 Q. Were you there in 2012 when

4 Target paid a \$232,000 fine for overcharging

5 cities, municipalities, for prescription drug

6 coverage?

7 MS. HENN: Objection to form.

8 THE WITNESS: I was there

9 during that time frame.

10 QUESTIONS BY MR. RAFFERTY:

11 Q. Do you recall that?

12 A. I actually don't.

13 Q. You don't?

14 A. Not top of mind.

15 Q. Well, you said that you'd also

16 worked in doing some diversion, right, when

17 you were at Target, or worked in the

18 diversion prevention at Target?

19 A. Right. Right.

20 Q. So when you came to -- when you

21 came to McKesson then, you certainly should

22 have known the responsibilities and duties of

23 a distributor of drugs, of narcotics, under

24 the Controlled Substances Act, right?

25 MS. HENN: Objection to form.

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1 THE WITNESS: I knew what they

2 were.

3 QUESTIONS BY MR. RAFFERTY:

4 Q. And you should have known then,

5 when you started at McKesson, the dramatic

6 impact that allowing diversion to occur with

7 the narcotics that you were distributing can

8 have on the public safety and welfare,

9 correct?

10 A. I know the role that a

11 distributor plays. That's why -- you know,

12 the impact that they can have. That's why I

13 came and joined the team. So I recognize

14 that.

15 MR. RAFFERTY: Nothing further.

16 MS. HENN: Thank you.

17 Before we go off the record the

18 last time, I would just, again, ask

19 the court reporter to please mark the

20 transcript highly confidential pending

21 review as ordered by the Court, and we

22 will also reserve the right to read

23 and sign.

24 Thank you very much.

25 VIDEOGRAPHER: The time is

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1 6:11 p.m., August 1, 2018. Going off

2 the record completing the videotaped

3 deposition.

4 (Deposition concluded at 6:11 p.m.)

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1 CERTIFICATE

2

3 I, CARRIE A. CAMPBELL, Registered

4 Diplomate Reporter, Certified Realtime

5 Reporter and Certified Shorthand Reporter, do

6 hereby certify that prior to the commencement

7 of the examination, Nathan J. Hartle was duly

8 sworn by me to testify to the truth, the

9 whole truth and nothing but the truth.

10 I DO FURTHER CERTIFY that the

11 foregoing is a verbatim transcript of the

12 testimony as taken stenographically by and

13 before me at the time, place and on the date

14 hereinbefore set forth, to the best of my

15 ability.

16

17 I DO FURTHER CERTIFY that I am

18 neither a relative nor employee nor attorney

19 nor counsel of any of the parties to this

20 action, and that I am neither a relative nor

21 employee of such attorney or counsel, and

22 that I am not financially interested in the

23 action.

24

25

17 CARRIE A. CAMPBELL,

18 NCRA Registered Diplomate Reporter

19 Certified Realtime Reporter

20 California Certified Shorthand

21 Reporter #13921

22 Missouri Certified Court Reporter #859

23 Illinois Certified Shorthand Reporter

24 #084-004229

25 Texas Certified Shorthand Reporter #9328

Notary Public

Dated: August 6, 2018



